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ABSTRACT

SHAPES--an acronym for the South Plains Child Care Management Services (SpCCMS) Helping, Assisting and Preparing Educators and Staff--is also the name of a preschool readiness curriculum that is being developed for use by administrators and teachers. The first phase of the curriculum development consists of the publication of five books to be used in training teaching staff. The present text is the second book in the series. This book presents performance standards for child care facilities in Texas, which are excerpted from the 1985 revision of the Texas Register and the 1989 Regulation of Child Care Facilities. Each standard is accompanied by suggestions from day care operators on meeting the standard and a checklist for documenting the facility's performance. Performance standards address: (1) organization and administration; (2) personnel; (3) building, grounds, and equipment; (4) fire, sanitation, and safety; (5) physical health; (6) food service and nutrition; and (7) children's water activities. A glossary of terms is provided. Appendixes include a copy of the Texas code regulating child care facilities; excerpts from the Texas Family Code; child care facility immunization requirements; charts describing communicable diseases and the nutritional value of various foods; lists of alternatives to physical punishment and criminal offenses from the Texas Penal Code; and a description of sanitizing procedures for food service equipment. (BC)

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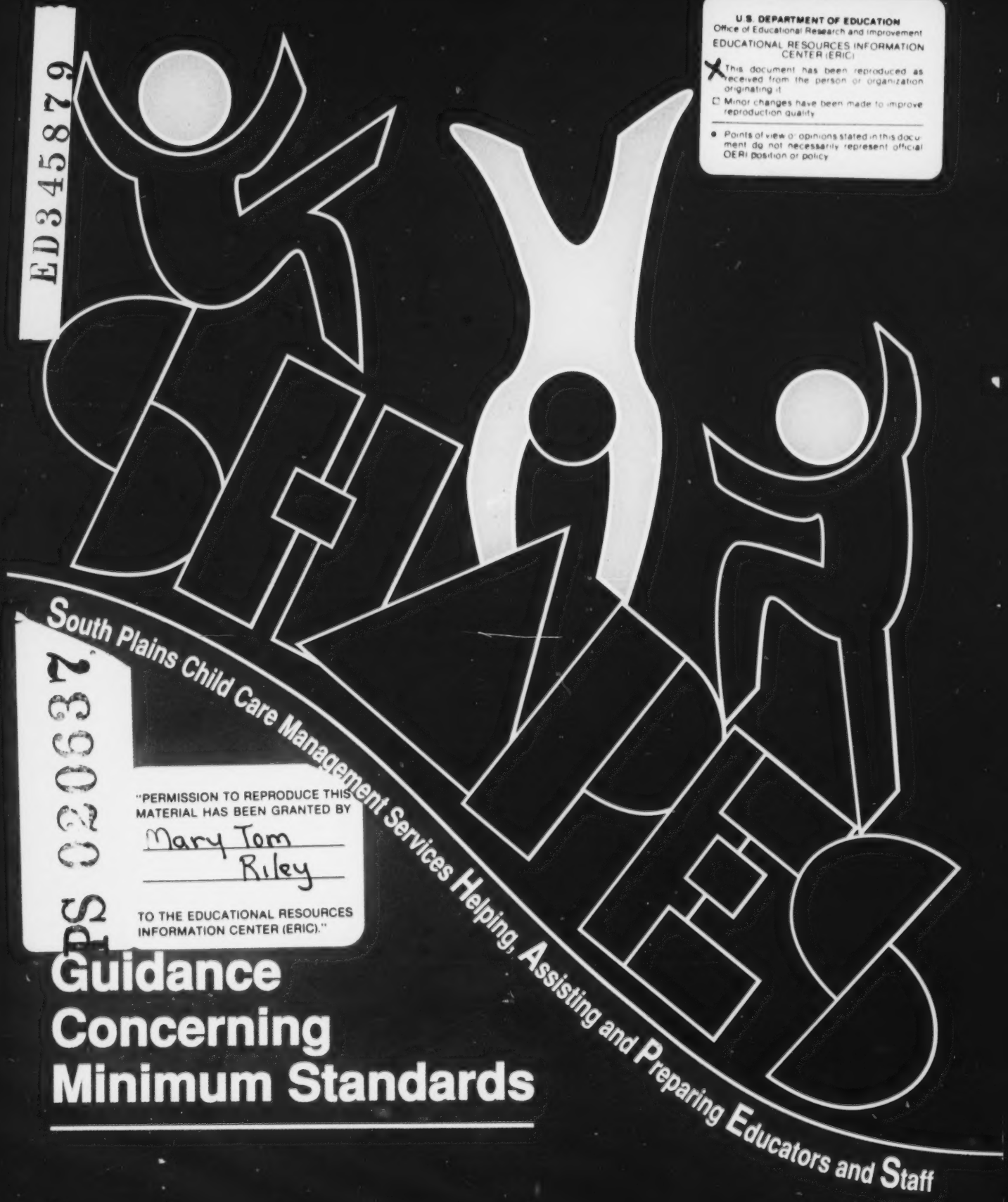

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Guidance Concerning Minimum Standards

SHAPES

GUIDANCE CONCERNING MINIMUM STANDARDS

By

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Summer 1991

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Minimum Standards for Day Care Centers

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PREFACE

SHAPES is an acronym for the **S**pCCMS (South Plains Child Care Management Services) **H**elping, **A**ssisting and **P**reparing **E**ducators and **S**taff. The SHAPES acronym also names this preschool readiness curriculum, which is being developed annually in phases for use by administrators and teachers. Phase I consists of five books to be used in the training of the teaching staff. SHAPES can be used by the teachers as a reference to appropriate child care practices and curriculum and for developing the first six weeks of lesson plans.

Guidance Concerning Minimum Standards is number two of the five-book series. This book is to be used for the self-inspection of day-care facilities. It explains how to stay in compliance with the standards which are central to operations in the State of Texas. This book is made up of the performance standards, guidance suggestions gleaned from day-care operators, and space for checking, documenting and commenting on the performance standards.

SHAPES curriculum books published for Phase I include not only *Guidance Concerning Minimum Standards*, but four others: *A Quick Study: Child Growth and Development Handbook*; *A Beginning Curriculum: The First Six Weeks*; *Environments That Make a Difference*; and *Training With the Trainer's Manual*.

Acknowledgments

Authorship of a curriculum is only one aspect of the total development of such a publication. Commitment, support and contributions made by individuals actively involved in the SHAPES curriculum development make the result a product of teamwork.

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Minimum Standards

The performance standards presented in the following pages are accompanied by guidance material which elaborates upon the intent of the performance standards and provides methods and procedures for implementing them. The guidance material was pulled together from several different day care center operators. The performance standards were taken verbatim from the Texas Register revised on May 1, 1985 and from Regulation of Child-care Facilities effective September 1, 1989. The minimum standards for regulating child care facilities are developed by the Texas Department of Human Resources (DHR). The child care licensing law sets guidelines for what must be included in the standards and requires that minimum standards be reviewed and commented on by the State Advisory Committee on Child-care Facilities.

Using *Guidance Concerning Minimum Standards*

This handbook was developed to make self-inspection of day-care facilities faster and easier. The Guidance, Check, Documentation, and Comments columns are provided for the assistance of day-care programs in interpreting and implementing the performace standards but are not themselves mandatory. To use this handbook you may follow this procedure:

1. Read the performance standard on the left half of the page.
2. Refer to the corresponding interpretation of the performance standard in the Guidance column.
3. If the performance standard has been met, initial the Check column. If they are not met, leave blank.
4. Record where documentation can be found.
5. Enter any comments to explain the response.

Once completed, the blank Check column spaces will highlight areas needing further attention.

1100 (§81.401) Organization

1. A center must have a governing body (see Glossary) that is responsible for the center's policies. The governing body must assure that the center operates in compliance with the "Minimum Standards for Day-care Centers" and the child care licensing law, Chapter 42, Human Resources Code (see Appendix I). The governing body must inform the department of the name and mailing address of the sole proprietor, the partners, or its chief executive officer.

2. A corporation operating a day care center must make one of the following available to the department for review:
   a. the Articles of Incorporation,
   b. the Certificate of Incorporation, or
   c. a copy of the Certificate of Authority (for an out-of-state corporation).

3. A corporation or church must make available to the department a copy of the resolution authorizing the operation of the center unless the authorization is included in the document required in item 2.

4. The governing body must notify the department and apply for a new license before changing the location of the center.

5. The governing body must notify the department in writing of
   a. any planned addition or reduction to indoor or outdoor space before using the changed areas, and
   b. the addition of a swimming or a fixed wading pool before using the pool.

6. The governing body must notify the department by telephone or in writing before, if possible, or within five workdays of any occurrence affecting the operation of the center. This includes, but is not limited to, the following:
   a. change of the governing body or ownership,
   b. change of center director.
   c. change of board chairman of a corporate center or other chief executive officer of the governing body,
   d. change of governing body designee (see Glossary),
   e. going out of business,
   f. change in hours operation, and
   g. change in age range of children in care.

If any change would violate the restrictions on the license, the governing body must request that the license be amended. It must wait until the department changes the restriction before making the change in operation.

Guidance	Check	Documentation	Comments
1100 (§81.401) Organization			
2. In programs where the facility is not owned by the caregiver, notebooks and file boxes can be used to display documents.			

1200 (§81.402) General Administration

1. The center must display the following in a prominent place where staff, parents, and others may review them:
   a. its license,
   b. the letter or compliance evaluation form that the licensing representative provided at or following the most recent inspection or investigation of the center (if the notification includes a requirement for posting),
   c. current menus, and
   d. a department form stating that the items required in standard 1200, 2 are available.

2. The center must have available for review on request
   a. the letter or compliance evaluation form that the licensing representative provided at or following the most recent inspection or investigation of the center (if the notification does not include a requirement for posting);
   b. a current copy of the department's "Minimum Standards for Day-care Centers"; and
   c. the center's most recent
      (1) fire inspection report,
      (2) sanitation inspection report, and
      (3) gas pipe inspection report.

3. The center must immediately notify the department of any serious occurrences affecting the day-care operation. These include, but are not limited to, the following:
   a. fire, and
   b. death, serious accidents, serious injury, or serious communicable disease of a child or staff.

4. The center must report suspected child abuse or neglect as required by the Texas Family Code (see Appendix II) to
   a. the nearest DHR child protective services office, and
   b. a local or state law enforcement agency.

Guidance	Check	Documentation	Comments
1200 (§81.402) General Administration			
1. In school or church buildings, documents can be displayed on desks or tables.			
2. In some cases, these inspection reports will be combined.			
4. Standard forms can be designed for each center so that required information can be reported accurately and immediately. Health checks can be given as the children arrive at the center. These should be given in the presence of the parent(s) and all bruises, cuts, etc. should be documented. As you are documenting each you may politely ask the parent(s) what happened. This will establish documentation for you and a means of checking for patterns if there is reason to believe that the child is being abused.			

5. The center must ensure that a person who is indicted or the subject of an official criminal complaint accepted by a county or district attorney alleging he committed any of the offenses listed below must not be at the center while children are in care and must not have contact with the children in care until the charges are resolved. The offenses (see Appendix VIII) are as follows:
   a. a felony or misdemeanor classified as an offense against the person or family,
   b. a felony or misdemeanor classified as public indecency, and
   c. a felony violation of any law intended to control the possession or distribution of any substance included as a controlled substance in the Texas Controlled Substances Act.

The center must notify the department of an indictment or complaint within 24 hours or on the next workday.

1300 (§81.403) Enrollment

1. Before a child is enrolled, the center must inform parents about the center's activities and policies.

Guidance	Check	Documentation	Comments
5. Criminal History checks should be standard when interviewing applicants.			
1300 (§81.403) Enrollment			
1. Develop a brochure or flyer that highlights your center's activities. Include such things as types of activities planned on a regular basis for children of various age groups. Develop a parent handbook that outlines your center's policies, or discuss your policies during the parent orientation. Include information about such things as: fees and when they are due, hours of operation, sick children, late pick-up charges, days of the year the center is closed, changes of clothes, medicine, play-ground duties, etc. Let parents know up-front what your policies are! Encourage parents to visit the center with their child, if possible, at least once or twice before admission so that the parent can become familiar with the center. When the parent is comfortable, the child is more likely to be comfortable! Provide this intermediate step to ensure happiness for all!			

2. The center must obtain enrollment information for each child before admission. The center must keep this information as long as the child is in care. The parent must sign a form that contains the following:

a. the child's name, birth date, home address, and home telephone number;
b. the school telephone number for a school-age child;
c. date of admission (see Glossary);
d. name and address of parents and telephone numbers at which parents can be reached while the child is in care;
e. names of people to whom the child may be released;
f. hours the child will be in care (not to exceed 12 hours);
g. name address, and telephone number of the child's physician;
h. a statement of the child's special problems or needs. This includes allergy, existing illness, previous serious illness and injuries, hospitalizations during the past 12 months, and any medication prescribed for long-term, continuous use;
i. transportation permission, if transportation is provided;
j. permission for participation in water activities, if any; and
k. emergency medical authorization.

Guidance	Check	Documentation	Comments
2. Contact the Licensing Branch for an enrollment form which has already been developed. It has all of the information needed about each child in a clear and concise format. You may want to develop an additional form for supplemental information. It is often helpful to have the following included: (1) basic daily schedule (2) potty-training procedure being used for the 2- to 3-year-old, and the words used by the child to communicate his/her needs (3) fears the child may have (4) special likes or dislikes of the child (5) information about how parents might like to get involved in the center, what their regular work schedule is, etc. It may also be necessary for you to obtain permission from the parent(s) if photographs of the child might be taken.			

3. The center must
   a. give the parent of each child in care a copy of the department booklet, "A Parent's Guide to Day Care," and
   b. keep on file a copy of the receipt to show that the parent was given the booklet and discussed it with the center.

4. The center must not racially discriminate against any child.

1400 (§81.404) Records

1. The center must have records of daily attendance of children and staff for the previous three months. The hours staff worked must be recorded.

2. The center must maintain personnel records for all staff and ensure that each staff's record includes
   a. the date on which the staff began work at the center;
   b. a statement from the staff providing information about all felony and misdemeanor convictions and all pending criminal charges, including deferred adjudication;
   c. a record of a tuberculosis examination no earlier than 12 months before beginning the position; and
   d. a copy of an application or other document showing how the staff meets the requirements in standard 2300, 1 and 2.

Guidance	Check	Documentation	Comments
3. When giving this booklet to the parents, talk with them about it. Highlight important points. Use this time when you are communicating so closely with parents to let them know that you work hard in your center to provide quality care and meet all minimum standards.			
4. Remember that all children deserve equal respect from the adults who care for them. Look at each child as an individual with unique differences and special needs. But also recognize that all children, regardless of race and background, have many similarities. Every child needs an adult who cares about him or her especially!			
1400 (§81.404) Records			
1. Use time cards or sign-in sheets to document staff attendance. After completing payroll, simply keep these forms on file. Provide each teacher with a list of the children in her class on a weekly basis. This can be used to check roll and to help the teacher keep track of how many children she has on a given day. Have parents sign children in and out each day. A simple sign-in/out sheet will do nicely.			
2. Create and maintain preschool files that contain the required information as well as regular staff evaluations, references, record of special services to your center, etc. Create a checklist of items required by minimum standards that you and the employee can go through and check together what is needed.			

3. All required records must be available at the center for the department to inspect during hours of operation.

2100 (§81.405) Director Qualifications

1. The on-site director of a day-care center must be a least 21 years old and have a high school diploma or its equivalent **and one** of the following:
   a. a bachelor's degree from an accredited college or university with at least 12 credit hours of child development or early childhood education and one year of experience in a center;
   b. a Child Development Associate credential;
   c. an associate of arts degree in child development or a closely related area and one year of experience in a center;
   d. a day care administrator's credential issued by a professional organization or an educational institution and recognized by the Licensing Branch and one year of experience in a center (the experience may have been part of the credential requirements); **or**
   e. three years of experience as a director or staff in a licensed child care facility **and** six credit hours in child care, child development, or early childhood education **and** six credit hours in business management from an accredited college or university. Five continuing education units (see Glossary) may be substituted for each three credit hours.

Documentation showing how the director meets the above qualifications must be available at the center.

A person who was director of a center on May 1, 1985, has three years from that date to comply if he remains in the same position.

2. The director of a day-care center licensed for 35 or more children must meet the requirements in standard 2100, 1. He also must have two years experience as a director or staff in a licensed day-care facility. This may include experience toward meeting the requirements in standard 2100, 1.

A person who was a director of a center licensed for 35 or more children on May 1, 1985, has three years from that date to comply if he remains in the same position.

Guidance	Check	Documentation	Comments
3. Keep a separate file drawer that includes the records needed by the Department of Human Services so that when the licensing representative comes, you can say that everything is located in a specific area. Keep your records well organized. **2100 (§81.405) Director Qualifications** 1. This information should be part of the initial application and interview process. Copies of diplomas, training, workshops and CDA credentials should be filed with the employee's records.			

3. No one may serve as director of a center who has been convicted of any of the following offenses (see Appendix VIII):
   a. a felony or misdemeanor classified as an offense against the person or family,
   b. a felony or misdemeanor classified as public indecency, or
   c. a felony violation of any law intended to control the possession or distribution of any substance included as a controlled substance in the Texas Controlled Substances Act.

4. The director must send the department the following on a department form:
   a. a record of training and experience;
   b. information about all felony and misdemeanor convictions; and
   c. information about all pending criminal charges, including deferred adjudication.

2200 (§81.406) Director Responsibilities

1. An on-site director must administer the center's daily operation in compliance with minimum standards. If the director is absent from the center, an adult staff must be designated in charge and given the authority to administer the center. During the director's absence, the designated staff must administer the center in compliance with minimum standards.

2. The director must provide the staff's assignments and supervise the staff.

2300 (§81.407) Staff Qualifications and Responsibilities

1. Staff working with children must be age 18 or older. The center, however, may include in the staff-child ratio a person 16 or 17 years old who works under the direct supervision of a qualified adult staff **and**
   a. has graduated from high school, or
   b. is enrolled in a career program related to child care approved by the Texas Education Agency or in other state or federally approved programs.

At least one qualified adult staff must be included in the staff-child ratio of the group when children are in activities away from the center.

Guidance	Check	Documentation	Comments
3. Criminal history check forms are available and should be completed in the interviewing process.			
2200 (§81.406) Director Responsibilities			
1. Directors must collect fees; ensure that staff/ child ratios are correct; assign duties; be sure that a safe environment is maintained; deal with parents and visitors; and most importantly, delegate responsibilities appropriately. A director in charge of a center should not take charge of an individual child or class.			
2. A director should let the staff know where he or she is at all times. It is important to establish times when the director will be available for the staff.			
2300 (§81.407) Staff Qualifications and Responsibilities			
1. If a staff member is younger than 18 years old, that staff member should never be left alone with a child. That staff member is, however, counted in the staff/child ratio as long as he or she is coupled with a staff member that is 18 years old or older.			

2. Each staff employed after May 1, 1985, must have a high school diploma or its equivalent except when meeting the requirements in standard 2300, 1.b.

3. Staff must show competency, good judgment, and self-control in working with children.

4. Staff must relate to the children with courtesy, respect, acceptance, and patience.

5. Effective January 1, 1986, a person certified in first aid and a person certified in cardiopulmonary resuscitation of children must be present at the center during all hours of operation. The center must have current certificates attesting to the training.

6. People at the center must not abuse, neglect, or sexually molest children (see Glossary).

7. A person convicted of any of the following offenses (see Appendix VIII) must not be at the center while children are in care and must not serve in any capacity where there is contact with children in care:
   a. a felony or misdemeanor classified as an offense against the person or the family,
   b. a felony or misdemeanor classified as public indecency, or
   c. a felony violation of any law intended to control the possession or distribution of any substance included as a controlled substance in the Texas Controlled Substances Act.

Guidance	Check	Documentation	Comments
Staff should be encouraged to attend any or all of the meetings on minimum standards so that they will be aware of the standards.			
3. The tone of voice is important when complying with this standard. The director should let the staff know exactly what he or she requires and expects in these areas.			
4. Staff must remember what is developmentally appropriate for each age group of children and allow the children to be children. Ask staff members to think about what they would do if it were their child. Use good judgment.			
5. Community CPR training is recommended for all staff.			
6. Verbal, emotional, physical or sexual abuse cannot be tolerated. Staff should be given extensive training concerning the definition of "abuse" and "neglect."			

8. People whose behavior or health appears to endanger the health, safety, or well-being of children must not be at the center.

9. People must not smoke in the children's presence or consume alcohol when children are at the center. People who appear to be under the influence of alcohol or other drugs must not be in the center when children are present.

10. Staff must supervise (see Supervision in Glossary) children at all times.

11. People working with children and counted in the staff-child ratio must be free from other duties except those directly involving the care and supervision of children. These responsibilities include keeping the group's area clean. Administrative and clerical functions (see Glossary) that take the staff's attention away from the children, meal preparation, or janitorial duties must not be included in the responsibilities of staff while the staff is counted in the staff-child ratio.

12. The center must ensure that children are not out of control.

13. The center must ensure that a child is released only to a parent or an adult designated by the parent.

14. If a parent calls to authorize the emergency release of a child, the center must verify that the caller is actually the parent.

Guidance	Check	Documentation	Comments
8. If a parent is clearly under the influence of a drug or alcohol, that parent should not be allowed to pick up the child. If the staff is aware of such behavior, they should inform the director or supervisor, then the director or supervisor should inform the parent that someone else must pick up the child. If such efforts to protect the child fail, immediately report the situation to the Child Protective Services or to the police.			
9. Have signs posted clearly stating that smoking is not permitted.			
10. Staff should have visual and hearing awareness of children at all times.			
12. Each center should define what they believe to be "out of control" and let staff know what the philosophy is. Communicate with staff through director.			
13. A pick-up authorization form indicating those persons who are allowed to pick up the child, should be made available to staff and should be referred to and followed.			

15. The center must have and follow a plan to verify the identity of a person authorized to pick up a child but not known to the staff. For example: view the picture identification on the person's driver's license or DPS identification card and record the person's name and card number. The center keeps identifying information for 24 hours.

16. If one staff leaves and another staff is given responsibility for the children (as in a shift change), the staff leaving must provide the incoming staff with
    a. any significant information he has about a child, and

    b. a list of children present in the group. This may be the class roll sheet.

2400 (§81.408) Training

1. The center must orient new staff members in understanding children and in job expectations when they begin work. The center must have documentation that each staff has been oriented in
    a. the requirements in the "Minimum Standards for Day-care Centers" and the licensing law;
    b. the center's child care policies, including discipline, guidance, and the release of children;
    c. recognition of symptoms of child abuse, neglect, and sexual molestation and the responsibility and procedure for reporting these; and
    d. the procedures to follow in handling emergencies (after the center has explored its environment for external hazards and formulated training plans accordingly). Emergencies include, but are not limited to, fire, explosion, tornado, toxic fume, or other chemical release.

2. If volunteers are counted in the staff-child ratio for special activities only, the center must
    a. ensure that each volunteer receives relevant orientation, and
    b. obtain from each volunteer the statement required in standard 1400, 2.b.

3. Staff must participate yearly in at least 15 clock hours of training (see Glossary) in understanding children and improving job performance.

The director must participate yearly in at least 20 clock hours of training. At least six clock hours must be in staff supervision or management and at least six clock hours must be in child development or early childhood education. The training must be documented in the staff's record at the center. A year is defined as 12 months from the date of employment.

Guidance	Check	Documentation	Comments
15. When a parent calls, have the parent also give a physical description of the person that will pick up the child.			
16. a. This information might include: on-going classroom activities, accidents, medications, possible discipline problems, early pick-up, etc.			
2400 (§81.408) Training			
1. It is recommended that new staff undergo a training period that includes information on: classroom safety, minimum standards, child abuse, the center's policies (e.g., drug policy, AIDS policy, personnel policy), CPR and first aid. These topics should be presented to the new employee in both verbal and written form. It is also recommended that staff are reviewed yearly on the minimum standards.			
3. There are many workshops and training sessions available. For a listing of these in your community, contact the American Education Youth Council, a local college or university, or South Plains Child Care Management Services. (Both first aid training, which is required every three years by some centers, and CPR training, which is required every year by some centers, will count toward the total number of training hours needed.)			

2500 (§81.409) Staff-Child Ratio

1. In a center, the number of children must not exceed the following:

Infants

Age of Youngest Child in Group	Maximum Number of Children	Number of Staff
0-11 months	5	1
0-11 months	12	2
12-17 months	6	1
12-17 months	14	2

When a child in the group is younger than 18 months old, the oldest child in the group must not be more than 18 months older than the youngest child except as in item d of this standard.

Preschool and School-age Children

Age of Youngest Child in Group	Number of Children of Youngest Age	Maximum Number of Children to be Supervised by One Staff
18 months	If four or more children are under 2 years old	9
18 months	If no more than three children are under 2 years old	10
2 years	If there are five or more 2-year-olds	11
2 years	If there are no more than four 2-year-olds	13
3 years	If there are seven or more 3-year-olds	15
3 years	If there are no more than six 3-year-olds	17
4 years	If there are 11 or more 4-year-olds	18
4 years	If no more than 10 children are 4 years old	20
5 years	If there are 13 or more 5-year-olds	22
5 years	If no more than 12 children are 5 years old	24
6 years and older		26

Guidance	Check	Documentation	Comments
2500 (§81.409) Staff-Child Ratio 1. Define "group" according to space or spaces used. Map or list the "groupings."			

a. If the youngest child in the group is younger than 18 months old, the maximum group size is 14 children. If the youngest child in the group is 18 through 23 months old, the maximum group size is 18 children.

Up to 35 children may be in regular classroom activities if
(1) the staff-child ratio is maintained, and
(2) the youngest child is age 2 of older.

b. The center may combine more than 35 children 2 years old or older for joint activities of limited duration (not to exceed 30 minutes) as long as the staff-child ratio is maintained. If all children in the groups are 5 years old or older, the center may extend the duration to a maximum of one and a half hours.

c. In determining the staff-child ration, the following apply:
(1) The center must use the developmental or emotional age of mentally retarded or emotionally disturbed children, as determined by a qualified consultant (see Consultation Services for Children with Need for Special Care in Glossary), and
(2) The center must maintain staff-child ratios as stated in standard 2500, 1 except during the following times:
(a) nap times. Children over 18 months old may be under the supervision of 50% of the staff-ratio if 75% of the staff-child ratio is maintained in the building. (This does not apply during evening or night care.) For any group with one or more infant, the center does not count staff caring for a group with an infant. It also does not count children in a group with an infant.
(b) transportation. (See section 7700.)
(c) water activities. (See section 7600.)
(d) field trips. (See standard 7100, 2.)
(e) forty-five minutes after opening and 45 minutes before closing. The center may regroup children older than 18 months without reference to age. The staff-child ratio for regrouped children must be one staff to a maximum of 18 children.

d. If 11 or fewer children are in care at the center, one of the following groupings is the maximum number of children permitted in the care of one staff:
(1) If one infant is cared for, no more than six preschool and four older children may be in care.
(2) If two infants are cared for, no more than five preschool and three older children may be in care.
(3) If three infants are cared for, no more than two preschool children and one older child may be in care.
(4) If four infants are cared for, no children older than 18 months may be in care.

Preschool children are ages 18 months to 4 years. Older children are from 4 to 14 years old.

2. Each child must have a staff who is responsible for him and who is aware of details of the child's habits, interests, and any special problems. Staff must know the child's name and have information showing his age.

Guidance	Check	Documentation	Comments
a. Limit the 35 to open spaces and activity times (playground, large motor room, etc.). Then divide into smaller groupings where adults can help each other, and smaller group size favors children's comfort and learning. b. Trade attendance lists when combining so that each caregiver will have a quick check of the numbers. c. Have primary caregivers to keep counting to assure ratios. Divide group after 30 minutes has passed for 35 plus (have number sheet by wall clock or someplace convenient). Determine and note developmental age of child upon enrollment and every 6 months thereafter, for ready check as to ratios. (2) (a) Divide out infants for ease of correct ratios. Maintain a chart of staff schedules and allow teachers to rotate planning times during nap times. Combining classes during nap time may allow you to do this. d. Use the information provided in this section to produce a chart that clearly designates the correct child/staff ratios. 2. It may be convenient for you to keep this information available on the attendance lists.			

3100 (§81.410) Space

1. There must be at least 30 square feet of indoor activity space, measured wall-to-wall on the inside, for each child in the center. The measurement does not include single-use areas (see Glossary).

2. The center must have an outdoor play space of at least 80 square feet for each child using the area at one time.

3. All outdoor play areas regularly used by children must be accessible by a safe route and enclosed by a building or fence at least 4 feet high and with at least two exits. An entrance to the building may count as one exit, but one exit must be away from the building. Staff must be able to open exits immediately in an emergency.

3200 (§81.411) Furnishings

The center must ensure the following:

1. a working telephone with a listed number.

2. preschool children have individual cots, beds, or mats at least 1 inch thick that are waterproof or washable. The center must ensure that all sleeping equipment and furnishings are clean and sanitary (see Glossary). Linens must be washed before a different child uses them and when soiled.

3. school-age children have comfortable arrangements for rest when they are in care more than seven hours.

4. children have storage available for personal belongings.

5. comfortable seating is available for the children.

Guidance	Check	Documentation	Comments
3100 (§81.410) Space 1. Have available a floor plan showing square footage. Measure the usable space and divide by the number of children to determine the number of children you can serve. Make lists of areas that can be used and the number of children that each area will accommodate. Know how many children your space will serve. 2. Schedule outdoor play space on a rotating basis, if needed, to ensure that each child has at least 80 square feet. 3. Post the appropriate fire escape route on the emergency exits and in each classroom. Discuss the route and the correct procedures for evacuating the building(s). Have routine fire drills. **3200 (§81.411) Furnishings** 2. Prepare a cot chart and label each cot with the child's name. Schedule days for washing linens. Place each child's pillow and blanket in a plastic bag, paper sack, etc. and label with the child's name. 5. Remember, little feet need to reach the floor. Longer legs need taller seats. Children need "elbow room." If they are seated too close to each other, a problem could develop.			

3300 (§81.412) Equipment

The center must provide indoor and outdoor equipment and materials (see Glossary) appropriate to the developmental needs, individual interests, and ages of the children. There must be a sufficient amount of equipment and materials to avoid excessive competition among the children or long waits for materials.

3400 (§81.413) Toilet Facilities

1. The center must have inside toilets located and equipped so children can use them independently and staff can supervise as needed. Bathroom doors must have no locks within the children's reach. Children must have privacy in the use of the bathroom as needed.

2. There must be one flush toilet for every 17 children.
   a. Urinals may be counted in the ratio of children to toilets, but they must not exceed 50% of the total number of toilets. Bathrooms that contain urinals must also have flush toilets.
   b. Potty chairs may be used, but they must not be counted in the ratio of children to toilets. They must be sanitized after each use.

3. There nust be one lavatory for every 17 children.

3500 (§81.414) Use of Facility

If programs not subject to regulation use the same facilities, the center must not use any space at the same time another program is using that space.

4100 (§81.415) Fire

1. In case of fire or danger of fire or explosion, the center's first responsibility is to evacuate the children to a designated safe area.
   a. The center must supervise children until the fire department determines the building is safe to re-enter or until the children are picked up by their families.

Guidance	Check	Documentation	Comments
3300 (§81.412) Equipment Children need lots of toys to keep them occupied and entertained and to provide developmental stimulation. Rotate toys and teaching aids before the children become bored with them. Be creative; plan learning centers. Toys can be made from boxes (large and small) and other non-toxic "throw-away" materials.			
4100 (§81.415) Fire a. Staff should be aware of their responsibilities for supervision of the children. Review these responsibilities with staff at least on a quarterly basis. Staff and children should receive special training in order to handle "panic situations" and the fears that may be associated with such incidents.			

b. The center must contact the fire department in case of fire or danger of fire, explosion, toxic fume, or other chemical release.

2. The center must have an annual fire inspection with a written report by a local or state fire marshal. The center must make any corrections called for in the report and must comply with any restrictions imposed by the fire inspector.

3. The center must have at least one fire extinguisher approved by the fire marshal. The center must mount the extinguisher on the wall by the hanger or bracket provided so that all staff can reach and use the extinguisher. The center must make the extinguisher readily available for immediate use by the staff. The center must inspect the fire extinguisher monthly, record the date, and ensure the extinguisher is serviced when required.

4. By January 1, 1986, the center must ensure the building is equipped with smoke detectors installed and maintained according to the manufacturer's instructions and in compliance with requirements of the local fire code.

5. The center must have emergency evacuation and relocation plans posted in each room the children use. The plan must show two exit paths from each room unless the room opens directly to the outdoors at ground level. The center must practice a fire drill every three months; it must practice any other emergency procedures once each year.

6. The center must have a flashlight or other battery-powered lighting available to use in case of electrical failure.

Guidance	Check	Documentation	Comments
b. Staff should receive training on what to look for in hazardous situations. Emergency numbers should be posted clearly and a clear line of authority (who calls in an emergency situation, who the staff reports incidents to, etc.) should be established and outlined in the plan of action.			
2. Fire inspection is a *must*! Alert caregivers to potential hazards in their own rooms.			
3. Keep a log by the fire extinguisher(s) to record monthly inspections. After each month's inspection, mark next month's inspection on a calendar. Assign one person to be responsible for the inspection each month with a back-up person trained in case that one person is out.			
4. Mark the date to inspect and test the smoke detector(s). This may be done at the same time and by the same person that inspects the fire extinguisher(s).			
5. It is important to have fire drills often. This will help the staff and the children feel more comfortable if an emergency situation were to occur. Drills also provide an excellent opportunity to discuss and allay the fears that children may have.			
6. Each room should have a battery-operated flashlight and each staff member should be aware of where each flashlight is in each room. Routine battery checks should be conducted and batteries should be replaced as needed.			

7. The center must ensure that all children and staff are able to exit safely from the building within three minutes in an emergency.
   a. A center must not provide child care on any level above or below the ground floor unless the center obtains from a fire marshal specific written approval for care on other levels.
   b. A center must have at least two exits to the outside located in distant parts of the building. An exit through a kitchen or other hazardous area cannot be one of the required exits unless specifically approved in writing by the fire marshal.
   c. If any doors open into a fenced yard, children must be able to open the doors easily from inside the center. The center must not have any locked doors between rooms while children are present.
   d. The center must not have any blocked doors or pathways.

8. The center must ensure that heating devices and areas near heat sources are not fire hazards and present no hazard to children.
   a. If the center has gas appliances, the center must ensure that the appliances have metal tubing and connections unless approved in writing by the fire marshal.
   b. Open flame space heaters are prohibited. Space heaters must be enclosed and have the seal of approval of a test laboratory approved by the fire marshal. The center must safeguard floor and wall furnace grates so that children do not have access to them.
   c. If the center has liquid or gas fuel heaters, the center must properly vent them to the outside. Unvented liquid or gas fuel heaters are prohibited.
   d. If the center uses a fireplace or wood-burning stove, the center must properly vent it to the outside. The center must install a rigid screen or guard to prevent children from falling into the fire or against the stove.

9. The center must ensure that gas pipes are tested annually for leaks.

4200 (§81.416) Sanitation

1. The center must have an annual sanitation inspection with a written report by a local or state sanitation official. The center must make any corrections and must comply with any restrictions stated in the report.

2. The center must keep its building, grounds, and equipment cleaned, repaired, and maintained to protect the health of the children.

Guidance	Check	Documentation	Comments
7. Each room should have class rolls, evacuation plan and flashlight easily accessible so that staff can carry these out with them during evacuations or drills.			
8. Make sure that the fire marshall checks these areas and alerts all staff to potential hazards.			
9. Schedule inspections on a regular basis and obtain documentation of the results to keep in the center's records.			
4200 (§81.416) Sanitation			
1. Obtain and retain documentation of all inspections.			
2. Inspect the center and grounds regularly. Rotate staff assignments for inspections and have the staff document their results and comments. Discuss these results and comments at the staff meetings.			

3. The center must have adequate light, ventilation, and heat.

4. The center must have an adequate supply of water meeting the standards of the Texas Department of Health for drinking water. If possible, the source of water must be a public drinking water system.

5. The center must ensure that drinking water is always available to children. The center must supply the water in a safe and sanitary manner.

6. The center must ensure that the temperature of hot water available to children is controlled by a thermostat so the water cannot scald (no higher than 120 degrees Fahrenheit).

7. The center must have adequate and safe flush toilets and sewage systems. If possible, the center must be connected to a public sewage system. If public sewers are not available, the center must have treatment facilities that meet the standards of the Texas Department of Health and that are approved by the local health authority.

8. The center must keep all garbage in containers with tight lids. Garbage must be kept away from areas used by children. The center must remove garbage from the building daily and from the center at least once a week.

9. The center must take measures to keep the center free of insects and rodents.

10. Staff and children must wash their hands with soap and running water after using the toilet and before eating. Staff must wash hands with soap and running water before and after changing a diaper, assisting a child with toileting, feeding a child or handling food, and caring for a child with symptoms of a communicable disease.

11. If children use washcloths or cloth towels, the center must ensure that each child has a clean individual cloth. If paper towels or facial tissues are furnished, the center must provide a clean individual paper towel for each child.

Guidance	Check	Documentation	Comments
3. Get on a child's level, your hands and knees if necessary, and make these inspections. Make sure that you are comfortable in the environment at this level. Being on a child's level may also alert you to otherwise unseen hazards or potential hazards. 4. Have the water tested regularly by the Health Department, especially if your water source is a water well. 9. If poisons or insecticides are on the premises, be sure to store them out of the reach of all children. Exterminations should be scheduled when children will not be in the facility.			

4300 (§81.417) Safety

1. The center must keep its building, grounds, and equipment repaired and maintained to protect the safety of children.
   a. The center must have child-proof covers or safety outlets for electrical outlets accessible to children younger than 5 years old. If 220-volt electrical connections are within the children's reach, the center must cover them with a screen or guard.
   b. The center's air conditioners, electric fans, and heaters must be mounted out of the children's reach or have safeguards that keep children from being injured.
   c. The center must equip stairs, porches, and platforms more than 2 feet above the ground with railings the children can reach.
   d. The center must keep its play area free from standing water and sharp objects. The center must keep tanks, ponds, open wells, drainage ditches, sewage pipes, dangerous machinery, and other hazards fenced to keep the children out. The center must not have garbage cans or highly flammable material in the play area. Covered trash cans are permitted (see Glossary).
2. Indoor and outdoor equipment and supplies used both at and away from the center must be safe for the children.
   a. Outdoor play equipment must be placed away from busy areas in the yard and securely anchored unless portable by design.
   b. The center must not allow toys that explode (such as caps) or that shoot things (such as darts or BBs).
   c. The center must ensure that both indoors and outdoors children do not have access to toxic substances.
   d. All swing seats must be constructed of durable, lightweight, relatively pliable material, such as rubber or nylon webbing.
   e. All heavy equipment must be installed in a manner to prevent tipping over or collapsing.
   f. The center must not allow children to use
      (1) climbing equipment or swings on concrete or asphalt, or
      (2) swings with concrete or asphalt in the fall zone (see Glossary).
   g. The center must ensure that no equipment has openings or angles that could entrap (see Glossary) a child's head.
   h. The center must ensure that no pinch, crush, or shear points are **on** equipment (such as exposed or open gears on rotating devices) or **underneath** equipment (such as axle assemblies on rotating devices).

Guidance	Check	Documentation	Comments
4300 (§81.417) Safety a. It may be a good practice to incorporate this rule for all ages of children in the center. 2. f. (2) The fall zone is an area extending: 4 feet from climbing structures; 5 feet from the bottom of a slide (other parts of the slide are climbing structures); 7 feet plus the length of the chain from a swing's point of suspension; and 7 feet from a merry-go-round and other revolving device.			

3. The center must have first aid supplies (see Glossary) readily available to staff in a designated location and out of the children's reach. The center must have an immediately accessible guide to first aid and emergency care.

5100 (§81.418) Health Requirements for Children

1. Within one week of admission, the center must have on file evidence that each preschool child is physically able to take part in the day-care program. Any of the following constitutes compliance:
   a. a written statement from a licensed physician who has examined the child within the past year;
   b. a copy of the medical screening form of the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program if no referral for further diagnosis and treatment is indicated;
   c. a form or written statement from a health service or clinic, such as
      (1) Head Start physical exam,
      (2) well-child conferences or clinics,
      (3) maternity and infant programs, or
      (4) children and youth programs; or
   d. a signed statement from the parent
      (1) giving the name and address of a licensed physician who has examined the child within the past year and states that the child is able to participate in the program. This must be followed within 12 months by a document as described in a, b, or c;
      (2) giving the name and address of the physician with whom an appointment for examination has been made or the address of the EPSDT screening site where the examination will take place. Following the examination, the parent must submit a document as described in a, b, or c; or
      (3) stating that medical diagnosis and treatment are against the parent's religion.
2. The center must keep current immunization records for each child at the center. (See Appendix III for immunization requirements.) The center must ensure that each child's immunization record includes the child's birth date, the number of doses and type, and the dates (month, day, and year) the child received each immunization. The center's compliance with this standard is measured by one or more of the following for each child in care:
   a. a dated record that the child has been immunized against diphtheria, tetanus, pertussis, polio, measles, mumps, and rubella. There must be
      (1) a record with a rubber stamp or signature of the physician or health personnel, or
      (2) a machine or handwritten copy of the immunization record. Staff copying the information must sign the handwritten copies.

Guidance	Check	Documentation	Comments
3. The first aid kit should include: multi-size adhesive bandages, gauze pads, tweezers, cotton balls, hydrogen peroxide, syrup of ipecac (induces vomiting), and a thermometer.			
5100 (§81.418) Health Requirements for Children 1. Discuss these requirements with the parent(s) upon enrollment of the child. Include in this discussion of health topics information relating to health resources and the rationale for these requirements. Document this discussion as a parent involvement activity.			
2. Schedule a regular time and method to review records and follow-up with parent(s) on questionable areas.			

b. a dated statement from a licensed physician or other authorized health personnel that immunizations against at least one of the diseases in standard 5100, 2.a. have begun. The immunization cycle must be completed as soon as is medically feasible. The center must have a current immunization record on file.

c. a certificate signed by a licensed physician stating that the required immunization would be injurious to the health and well-being of the child or a member of the child's family or household.

d. an affidavit (notarized statement) signed by the parent that the immunization conflicts with the parent's religious beliefs and practices.

e. a dated statement signed by the parent that the child's immunization record is current and is on file at the school the child attends. The parent must include the name of the school in the statement.

3. The center must have a record showing that the child has been tested for tuberculosis according to recommendations of the Texas Department of Health if the local health authorities or the regional office of the Texas Department of Health recommends a test.

A dated statement signed by the parent that the child's tuberculosis test record is current and is on file at the school the child attends also complies. The parent must include the name of the school in the statement.

5200 (§81.419) Illness or Injury

1. A child who appears ill must not be admitted to the center unless approved in writing by health personnel (see Glossary).

2. The center must handle illness or injury to protect the health of all children in the center.
   a. The center must provide an ill or injured child with a bed, cot, or mat away from the other children. The center must call the child's parent immediately. The child must be supervised until he leaves the center.

Guidance	Check	Documentation	Comments
b. Make a working chart for each child of all the required immunizations. Check off the required immunization when it has been received. Mark date when the next spot check is needed on a calendar or indicate it on the file. c. Ask the parent to have the child's doctor send a note or ask the parent to bring the note from the doctor with them to the center.			
5200 (§81.419) Illness or Injury 1. Define "ill" so that staff will have criteria to use in determining if a child is "ill." Include the definition of "ill" in the policy statement that is given to the parents. Follow-up with a note from the doctor or a phone call via office personnel. Note on the daily attendance chart that the child was ill and the reason for believing so, the time when the parent was called, and the time the parent came to pick up the child.			

b. The center must plan for providing emergency care for an injured child, a child with symptoms of acute illness, and a child who is choking or not breathing. The planning must include the continued supervision of other children in care.

c. Staff must give the child first aid or cardiopulmonary resuscitation, if needed. In the case of a critical illness or injury, the center must call the physician named by the parent, take the child to the nearest emergency room or minor emergency clinic, or call for an emergency vehicle.

3. The center must follow the recommendations of the Texas Department of Health concerning the admission or readmission of any child after a communicable disease (see Appendix VI).

5300 (§81.420) Medications

1. If a center agrees to administer medications, the center must administer the medication to the child as follows:
   a. Prescription medications must be in the original container labeled with the child's name, a date, directions, and the physician's name. The center must administer the medication as stated on the label directions. The center must not administer medication after the expiration date.

   b. The center must ensure that nonprescription medication is labeled with the child's name and the date the medication was brought to the center. Nonprescription medication must be in the original container. The center must administer it according to label directions if approved in writing by health personnel or the child's parent (see Glossary).
   c. The center must document each dose of medication administered showing the child's name; the name of the medicine; date, time, and amount administered; and the name of the staff administering the medicine. The record must be kept for two weeks.

Guidance	Check	Documentation	Comments
b. Keep floating staff on hand for emergency situations. The director's office is the best place for child so that group activities can continue. If someone is not available there to supervise, a cot in the classroom with self-directed activities for the group is advisable.			
3. A chart is available from the Health Department that can be posted for staff to see daily (see Appendix VI).			
5300 (§81.420) Medications			
a. A policy on medication should be developed. Have one place (a box or shelf) for all children's medications - out of children's reach. Get a written note from parents stating when the child was last given medication. Post a checklist of these criteria to refer to as parents bring in new medications. One staff member should be designated to administer medicine to children, in order to guard against duplication.			
b. Caregiver checks daily before children arrive to see if medications are current, etc. Medication **must** be approved by child's parent or health personnel.			
c. Maintain a clipboard with a page for each child taking medications, then place page in child's file. This log probably should be kept longer than 2 weeks and should become part of his or her permanent record.			

2. The center must keep medications out of children's reach or in locked storage.

3. The center must keep medications requiring refrigeration separate from food.

4. The center must return medications when no longer needed to the child's parent. The center must dispose of medications when a child withdraws from the center or when the medicine is out of date.

5400 (§81.421) Emergency Phone Numbers

1. The center must post the following emergency telephone numbers by a telephone accessible to all staff. This telephone must not be a pay phone.
   a. Ambulance service or emergency medical services (EMS).
   b. Police or sheriff's department.
   c. Fire department.
   d. Poison control center.
   e. Local DHR children's protective services office or child abuse hotline.
   f. The center (with address).

2. The center must keep the following telephone numbers in a place accessible to the telephone and to all staff:
   a. numbers at which parents may be reached, and
   b. numbers of the physicians designated by the parents.

5500 (§81.422) Animals

1. The center must ensure that animals on the premises have been vaccinated according to a licensed veterinarian's recommendations. The center must have documentation of the vaccinations.

2. The center must keep the center and play yard free of stray animals. The center must not allow children to play with stray animals.

Guidance	Check	Documentation	Comments
2. Medication area must be separate from children's activity area.			
3. Keep medication in a part of the kitchen refrigerator specifically designated for medication. A clearly labeled ice cream bucket with a sealable cover serves this purpose well. Place a note on the classroom medication shelf to remind caregiver of times medicine is to be administered.			
4. This should be part of every morning check. Send medication home with parents each night.			
5400 (§81.421) Emergency Phone Numbers			
1. Type numbers in large type or print neatly and laminate sheet. Hang on wall near each phone. For school-age care in schools, use a notebook for all pertinent material. Include these phone numbers as the first page. Many areas may only need to dial 911. This is much simpler than having all these numbers posted.			
2. Place file of children's folders near the director's phone - easily accessible to her in case of emergency. Instead of the usual files, use a recipe card file in each teacher's room. These compact files can be updated more easily.			
5500 (§81.422) Animals			
1. This includes turtles, mice, gerbils, etc. They may carry diseases.			
2. Keep fence around outdoor area in good repair. Cover sand boxes when not in use.			

6100 (§81.423) Food Service

1. The center must ensure that all food and drink served are of safe quality and are stored, prepared, distributed, and served under sanitary and safe conditions. The center must wash and sanitize food service equipment (see Appendix VII).

2. The center must practice good hygiene when handling food. Staff with open or infected wounds must not work in the food preparation area. No one may smoke in any of the food areas.

3. The center must discard single-service napkins, bibs, dishes, and utensils after use. Washable napkins, bibs, and tablecloths must be cleaned after each use.

4. The center must encourage, but not force, children to eat. The center must discuss recurring eating problems with the child's parent.

5. Cleaning supplies must be clearly marked, kept separate from food, and kept inaccessible to children.

6200 (§81.424) Nutrition

1. The center must ensure that food is nutritious and is served in variety and amounts adequate to ensure growth and development (see Appendix IV for required amounts).
   a. The center must maintain the daily menus for all meals and snacks prepared and served in the center. The center must ensure that any substitution is of comparable food value and is recorded on the menu. The center must keep the menus for 30 days.

Guidance	Check	Documentation	Comments
6100 (§81.423) Food Service 1. Use disposable serving containers or good dishwashers with adequate water temperature. (After school in school building: wash juice pitcher with soap and water, then sanitize it with bleach solution in spray bottle). 2. Directors monitor that all staff wash hands before preparing or serving food. Have staff report wounds so alternative help can be arranged for during food service. 3. Use a washing machine whenever possible. Be environmentally aware. 4. Make food attractive. Use finger foods. Make positive, rather than negative, comments about food. Adults should eat with the children and eat what they are eating. Set a good example. 5. Keep clearly labeled spray bottles of bleach solution on shelf away from food and out of children's reach. **6200 (§81.424) Nutrition** a. Set up a rotating set of menus (3-5 weeks) that meet nutrition standards. Make a grocery list for each week. Check the list for items on hand, then buy what is needed. This "permanent" grocery list saves a great deal of time each week.			

b. All children must have regular meals and morning and afternoon snacks.

c. The center must ensure that children in the center for six or more hours per day have food available that meets at least one-half of their daily food needs. This does not apply to children arriving after the evening meal and leaving before the morning meal.

d. The center must have the written approval of a physician or a registered or licensed dietician for special or therapeutic diets.

7100 (§81.425) Operation

1. The center must provide activities for each group according to the children's ages, interests, and abilities. The activities must be appropriate to each child's health, safety, and well-being. The activities also must be flexible and promote each child's physical, emotional, social, and mental growth.
   a. The center must provide physical care routines appropriate to each child's developmental needs. These must include a supervised rest period after the noon meal. Rest periods must not last longer than three hours. After two hours, the center must allow children who are awake to get up and participate in quiet activities. The rest area must be adequately lighted to allow visual supervision at all times.
   b. The center must ensure that indoor and outdoor time periods include
      (1) alternating active and quiet activities,
      (2) opportunity for individual and group activities, and
      (3) outdoor time each day the weather permits.

2. The center must ensure the children's safety on field trips and excursions and during any transportation provided by or for the center. Transportation includes, but is not limited to, transportation provided between home and the center and between the center and school (see section 7700 for additional transportation standards).
   a. At least 48 hours before a field trip, the center must post a prominent place a notice showing the group of children who will be on the trip and where and when they will go. The center must ensure that the notice remains posted until the group returns to the center.

   b. Staff supervising children must have immediate access to emergency medical forms and emergency contact information for each child in the group.

Guidance	Check	Documentation	Comments
b. Plan some snacks that children can prepare and serve themselves (see activities in *A Beginning Curriculum: The First Six Weeks*). Make these snacks and meals with the children's cultural ethnic tastes in mind. c. Make sure plan in 1. a. meets this requirement.			
7100 (§81.425) Operation 1. Post schedules for staff to follow and parents to see. Train staff on developmentally appropriate activities.			
2. Center should have a box of supplies labeled FIELD TRIP that includes name tags, file of children's emergency forms, roll book and an extra first aid kit if one is not in the van. Also, have an erasable board on the center's door labeled FIELD TRIPS. For each trip write in the place you are going, phone number, time you left and return time. Permission slips must be signed by parents before departure.			

c. Staff must have a written list of the children in the group and must check the roll frequently.

d. Staff must have first aid supplies (see Glossary) available on field trips.

e. When children are on a field trip in an enclosed, controlled area, the center must maintain the staff-child ratio as outlined in standard 2500, 1. An example would be an event planned for a group including, but not limited to, skating, dancing, or gymnastic classes; library story time; or tours.

f. When children are on a field trip and mixing with other children or adults, the adult-child ratio must be as follows:

Ages of Youngest Child in Group	Maximum Number of Children to be Supervised by One Adult
0-23 months	2
2 years	6
3 years	8
4 years	9
5 years	11
6 years and older	15

Examples of this situation include trips to shopping centers, the circus, or amusement parks and other activities in areas open to the general public.

(1) The number of regular staff supervising this type of field trip must be at least equal to the number required in standard 2500, 1. The number may be supplemented by parents or volunteers trained in the center's field trip procedures.

(2) Children must have name tags or other identification listing the name and phone number of the center.

g. Staff supervising a field trip must have transportation or a plan for transportation at the field trip location in case of emergency.

7200 (§81.426) Discipline and Guidance

1. The center must ensure that discipline and guidance are consistent, are based on an understanding of individual needs and development, and promote self-discipline and acceptable behavior.

2. There must be no cruel, harsh, or unusual punishment or treatment.

a. Staff must not shake, bite, or hit the children. No child under 5 years old must ever be spanked. The center must not put anything in or on a child's mouth as punishment.

Guidance	Check	Documentation	Comments
f. If you do not have enough staff to meet ratios, get volunteers. On the children's registration form have a check list for parents to indicate what they would like to be involved in. When you need volunteers for field trips, refer to your files for names.			
(2) Laminate children's name tag to use over again or make buttons.			
7200 (§81.426) Discipline and Guidance			
2. Train staff on guidance and positive discipline techniques. Make sure staff is trained in child development. Let the children help make the classroom rules, make sure "time out" is not too long. A suggested length 2-5 minutes.			

b. If the governing body believes that it is necessary to spank children who have passed their fifth birthday, the center must have a statement on file that it is the center's policy to permit physical punishment. The statement of the rules that the center has adopted concerning the administration of physical punishment must include that spanking be done only with a staff's open hand on a child's buttocks. Each incident must be witnessed by another staff and documented in the center's records. The center must inform parents of the policy in writing and must have the parents' signed approval. (See Appendix V for alternative methods of discipline.)

c. The center may use brief, supervised separation from the group if necessary, but the center must not place children in a locked room or in a dark room with the door closed.

d. The center must not humiliate or subject children to abusive or profane language. It must not associate punishment with food, naps, or toilet training. The center must ensure that bed wetters are not shamed or punished.

7300 (§81.427) Infant and Toddler Care

1. The center must provide infants with an indoor and outdoor environment that is safe and physically, mentally, emotionally, and socially stimulating.
   The center must care for infants in rooms and outdoor play areas separate from older children (unless 11 or fewer children are present) and according to infant groupings stated in standard 2500, 1.

2. An infant who is not yet climbing must have an individual crib with a waterproof mattress covered by a clean crib sheet. A mobile infant may sleep on a low cot or mat.

3. Staff must talk to, hold, and play with the infants.

4. The center must allow each infant to explore outside the crib or playpen each morning and afternoon.

5. Infants, while awake, may remain in their cribs for up to one hour as long as they stay content and responsive.

6. A staff must always be in the room with the infants.

Guidance	Check	Documentation	Comments
d. If a child wakes up wet from a nap, do not say anything out loud. Very quietly help him or her to the bathroom for changing and talk very gently about the day, **not** the accident.			
7300 (§81.427) Infant and Toddler Care			
4. Allow the smaller infants out while the larger ones are in their cribs, and then alternate.			
6. If staff needs time out, send in a substitute. Use two part-time workers in shift change so that stress level is not so high. (Each works 5 hours per day.) Infants need activities to learn. (Read, talk to them, blow bubbles, etc.) Keep small infants in high cribs and larger infants in lower cribs.			

7. The center must ensure that bottles are clearly marked with the child's name.

8. The center must ensure that infants up to 6 months old are held while being bottle fed. Infants over 6 months old must be held, if needed. Bottles must never be propped. The child or an adult must hold the bottle.

9. The center must ensure that an infant not yet ready for table food is fed an infant formula or diet approved in writing by the child's physician or parent. The center must obtain feeding instructions, dated and signed by the parent, and updated as changes are made.

10. Infants no longer being held for feeding must be fed in a manner that ensures their safety and comfort.

11. The center must ensure that staff promptly change soiled or wet diapers and other clothing in a sanitary and safe manner. The center must ensure that staff members
    a. place the child on a clean, washable surface disinfected after each use. The center may also use a surface with a clean, disposable covering that is changed after each use.
    b. use individual washcloths and towels or disposable towelettes to thoroughly cleanse and dry the child at each diaper change.
    c. place all used diapers in a moisture-proof bag or store them in a covered container that is cleaned daily.

12. If a center has a diaper flush, the center may subtract the number of infants under 18 months old from the total number of children in the center when determining the child-toilet ratio. One diaper flush may serve 17 infants.

Effective January 1, 1986, all centers providing infant care must have a lavatory in the infant area and in all other areas where staff changes children's diapers.

7400 (§81.428) Children with Need for Special Care

The center must ensure that children who need special care at the center because of disabling or limiting conditions are given the care and activities qualified psychologists, physicians, or other experts recommend.

7500 (§81.429) Night Care

1. A center offering night care must comply with any applicable fire and safety requirements for this type of care.

2. The center must have visible exits. This may be provided by exit lights or by lighted exits.

Guidance	Check	Documentation	Comments
7. Use permanent markers in small letters so the bottle doesn't look so messy; also put initials on the cap.			
9. In order to keep the feeding instructions current, remind the parents each time they have a checkup to have the doctor update and sign a statement.			
a. Use blue pads inside diapers that are thrown away after each use.			
c. A covered diaper pail lined with a trash bag is simple.			
7400 (§81.428) Children with Need for Special Care Before agreeing to keep a child with a special need, make sure you can give the best possible care and have the resources for this child in your area.			

3. Staff must be awake at all times. The center must ensure that activities and routines meet the unique needs of children in night care.

4. The center must ensure that each child, including a school-age child, has a cot, bed, or mat that complies with standard 3200, 2.

7600 (§81.430) Water Activities

1. When a center uses a splashing or a wading pool with less than 2 feet of water, the following apply:
   a. The center must meet the staff-child ratio for wading:

Age of Youngest Child in Group	Number of Staff	Maximum Number of Children
6 months-23 months	2	6
2 years	2	11
3 years	2	13
4 years	1	18
5 years	1	22
6 years and older	1	26

   b. When a child under 4 years old is in the water, two staff members must supervise.
   c. When the pool is not in use, the center must keep it out of the children's reach. Pools that can be drained must be drained; those that cannot must meet the requirements in standard 7600, 2. a.

2. When the center uses a swimming pool (more than 2 feet of water), the following apply:
   a. At the center, the pool must be enclosed by a fence at least 6 feet high and built so children cannot easily climb over it. The center must keep the gate locked when the pool is not in use.
   b. One lifesaving device must be available for each 2,000 square feet of water surface with a minimum of two for each pool.
   c. A certified lifeguard must be on duty at all times. This person must not be counted in the staff-child ratio if people other than the children from the center are swimming.
   d. Staff must be able to see clearly all parts of the pool, including the bottom.

3. The center must ensure that all drain grates are in place, are in good repair, and cannot be removed without using tools.

Guidance	Check	Documentation	Comments
7600 (§81.430) Water Activities a. Splashing and wading pools should only be offered to 3, 4, and 5 year olds. Eighteen month olds to 3 years should use a sprinkler. 2. Children under the age of six can do water activities at the center. Children over age six, should be allowed to go swimming at a pool with an on-duty lifeguard. The pool at the center should be drained and cleaned after each use and put away for storage so there's no danger of neighboring children getting in it without supervision.			

4. The adult-child ratio for swimming is as follows:

Age of Youngest Child in Group	Number of Staff	Maximum Number of Children
6 months-23 months	1	1
2 years	1	6
3 years	1	8
4 years	1	12
5 years	1	15
6 years and older	1	18

   a. The number of regular staff supervising swimming activities must be at least equal to the number required in standard 2500, 1. The number may be supplemented by parents or volunteers trained in the center's procedures for supervising swimming.
   b. Adults included in the staff-child ratio for swimming must be able to swim and must constantly supervise the swimming activity.
   c. When four or more children are swimming, two adults must be present.

5. When children are in a pool that has a pump and filtering system, an adult who is able to turn off the system immediately must be present.

6. The center must ensure that pool chemicals are inaccessible to children and that machinery rooms are locked.

7. All pools the center uses must be maintained as stated in the standards of the Texas Department of Health and local regulations.

7700 (§81.431) Transportation

1. Effective July 1, 1985, if a center provides transportation, each child being transported must ride in an infant carrier, a child seat, or a seat belt, as appropriate to the child's age and size.

   This requirement applies to all transportation including, but not limited to, transportation to and from the center, to and from school, and on field trips.

   This requirement applies to any vehicle used by or for the center to provide transportation, regardless of whether owned by the center and regardless of the type of vehicle - automobile, van, school bus, or other.
   a. Appropriateness is determined as follows:
      (1) The center must ensure that an infant who cannot sit up without support is properly restrained in a dynamically crash-tested infant carrier designed as a child passenger restraint device and manufactured according to federal standards. The carrier must be placed in a semi-reclining position facing the back of the car. The carrier must be held in the seat by the standard fixed seat belt.

Guidance	Check	Documentation	Comments
7700 (§81.431) Transportation			

(2) The center must ensure that each child under 2 years old who can sit alone is properly seated in a child seat that is a dynamically crash-tested child passenger restraint device manufactured according to federal standards.

(3) The center must ensure that each child age 2 or older rides in either a child seat that is a dynamically crash-tested passenger restraint device manufactured according to federal standards or in a seat belt. Only one person may use each seat belt.

(4) A child may ride in a shoulder harness and seat belt if the shoulder harness goes across the child's chest and not across the child's face or neck.

b. The center must properly anchor each restraint device and use the device according to the manufacturer's specifications.

c. If a parent provides equipment for the center to use for transporting the child, the equipment must meet the specifications stated in this standard.

2. Effective July 1, 1985, the driver and all adult passengers in a vehicle transporting day-care children must be properly restrained by a seat belt when the vehicle is in motion.

3. The center must load and unload children at the curb side of the vehicle or in a protected parking area or driveway. The center must ensure that children do not cross a street unsupervised after leaving a vehicle.

4. The center must keep first aid supplies (see Glossary) in all center vehicles transporting children.

5. The center must equip all center vehicles used for transporting children with a minimum of one 6-BC portable fire extinguisher. The fire extinguishers must be installed in the passenger compartment of the vehicle and must be accessible to the adult occupants.

6. The staff-child ratio for transporting children must be met.

a. One adult in addition to the driver must be present for each group of four children under 2 years old.

b. For children 2 years old or older, the staff-child ratio is established by any of the options outlined in standard 2500, 1. If there are children under 4 years old, at least two adults must be present.

Guidance	Check	Documentation	Comments
2. Use car seats that have been tested for safety. Have someone note use of car seats by parents, dropping off and picking up children at center. This makes parent more aware of the importance of using car seats for their children.			
3. Children are dropped off at driveway of the center. One adult is out to help children down and give instruction as to what to do. It is very important to explain the field trip or bus trip to children and give the rules and regulations of safety procedures. Children understand and are more conscious of situations when they know what is going on.			
4. Have training or directions on each item in the first aid kit so staff members know exactly what there is and what everything is for.			
6. It is very important to meet staff-child ratio. Even to this age group explain rules and why we have rules for children and invite parents so there will be enough help for the children. Parents enjoy it and staff members are more comfortable knowing there is extra help.			

Glossary (§81.432)

Abuse — Nonaccidental infliction or threat of infliction of physical, emotional, or mental harm to a child.

Activity Space — Area or rooms used for children's activity including those separate from a group's classroom (see also Single-use Area).

Administrative Functions — Functions which involve the management of a day care center, such as bookkeeping, enrolling children, answering the telephone, and collecting fees.

Admission — The process of entering a child in a day care center. The date of admission is the first day on which the child is actually present in care in the center.

Adult — A person 18 years old or older.

Application — The form the department furnishes to gather information about and to document the intent of the governing body to set up a day care program. The application also includes all material required to be submitted to the department.

Attendance — Children actually present in the day care center at any given time. (Not to be confused with enrollment.)

Child — A person who has not reached his eighteenth birthday.

Child Development Associate Credential — A credential which is highly desirable for staff working directly with young children; based on assessed competency in several areas of child care and child development. Child development training is available in the public community and junior college system as well as in four-year colleges, either in regular child development, vocational programs, or through adult continuing education courses.

Children with Need for Special Care — Children with disabling or limiting conditions which prevent or limit participation in the normal activities of the center and which may require additional supervision. Disabling or limiting conditions include visual impairment or deafness, other physical disabilities, mental retardation, emotional disturbance, or learning disabilities.

Consultation Services for Children with Need for Special Care — Qualified consultants include psychologists, special education counselors, educational diagnosticians, special education supervisors, teachers certified by the Texas Education Agency to teach mentally retarded or emotionally disturbed children, pediatricians, licensed registered nurses, child psychiatrists, and MSW social workers skilled in assessing normal and unusual developmental problems in children.

Such consultants may be found in state schools and hospitals, MHMR centers, human development centers, public school special education departments, university psychology or special education departments, and the state listing of certified psychologists. (Copies of "Roster - Texas State Board of Examiners of Psychologists" can be found in local DHR offices or can be ordered from the state office Business Management Bureau.)

Continuing Education Unit (CEU) — A certificate granted by an educational institution to a person who has completed a training course. (One CEU is granted for 10 clock hours of formal training.)

Day Care — The care, supervision, and guidance of a child or children unaccompanied by a parent, guardian, or custodian on a regular basis, for a period of less than 24 hours per day, and in a place other than the child's or children's own home or homes.

Day Care Area — That area specifically licensed for use by the day care program. This may include a specific portion or portions of the building and grounds of a larger facility or one or more buildings at the same location. That area, both indoor and outdoor, designated in the plan of operation.

Day Care Center — Any facility, whether or not known or incorporated under such descriptive title or name as "Nursery School," "Kindergarten," "Play School," "Child Development Center," "Early Childhood Center," and the like, which receives 13 or more children for day care. This term applies to program, buildings, grounds, furnishings, and equipment.

Day Care Location — The street address of the center; the lot or lots on which the building or buildings are located.

Day Care Program — Those services and activities provided by a center: the daily schedule.

Department (DHR) — Used in this document to refer only to the Texas Department of Human Resources.

Direct Child Care — The supervision, guidance, and care of children as compared to food service, janitorial functions, or administrative functions.

Director — That person the governing body designates to assume daily on-site responsibility for the operation of a center, including maintenance of minimum standards. In multiple day care centers under a chief administrative officer, the director is the person physically present at each center.

Enrollment — The list of names of children registered with the center. (Not to be confused with attendance.)

Entrapping Equipment — A component or group of components on play equipment that forms angles or openings that could trap a child's head by being (1) too small to allow the child to withdraw his head easily and (2) placed so that the child would be unable to support his weight by means other than his head or neck.

Equipment and Materials — Include, but are not limited to, books; art materials; music materials; manipulative materials; blocks and block accessories; dramatic play materials, including homemaking materials and dolls; science materials; and climbing equipment.

Facility — Includes people, administration, governing body, activities (on or off the premises), operations, buildings, grounds, equipment, furnishings, and materials.

Fall Zone — An area extending 4 feet from climbing structures; 5 feet from the bottom of a slide (other parts of the slide are climbing structures); 7 feet plus the length of the chain from a swing's point of suspension; and 7 feet from a merry-go-round and other revolving device.

First Aid Supplies — Required supplies include multi-size adhesive bandages, gauze pads, tweezers, cotton balls, hydrogen peroxide, syrup of ipecac, and a thermometer.

Food Service — The preparation or serving of meals or snacks.

Garbage — Waste food or items which, when deteriorating, cause offensive odors and attract rodents, insects, and the like.

Governing Body — The entity with ultimate authority and responsibility for the overall operation of the center. All governing bodies will be one of the following types:

(A) ***Sole proprietorship*** — Owned by an individual with the legal right and responsibility to possess, operate, sell, and otherwise deal with the facility. May include a facility owned in common by husband and wife.

(B) ***Partnership*** — A combination by contract of two or more people who use their money, labor, and skill to carry on a continuing business, dividing the profits and sharing the losses in an agreed manner. Includes general and limited partnerships.

(C) ***Corporation*** — An intangible entity created by individuals to operate for profit but to limit individual liability. Organized according to the Texas Business Corporation Act or similar act of another state as evidenced by its Articles of Incorporation.

(D) ***Nonprofit corporation*** — Equivalent of "not for profit corporation." None of the income is distributed to members, directors, or officers. Organized under the Texas Non-Profit Corporation Act.

(E) ***Nonprofit corporation with religious affiliation*** — Has nonprofit corporation status and is operated by, responsible to, or associated with an organization of individuals devoted to religious purposes. Does not include those whose relationship with a religious organization is only for business, such as those who only lease space.

(F) ***Association*** — A combination of individuals and interests of some kind without IRS tax-exempt status. Not organized under the Texas Business Corporation Act.

(G) ***Nonprofit association*** — A combination of individuals and interests of some kind, synonymous with "society," with operations devoted to charitable, benevolent, religious, patriotic, or educational purposes. Not organized under the Texas Business Corporation Act.

(H) ***Nonprofit association with religious affiliation*** — A combination of individuals and interests of some kind, synonymous with "society," with operations devoted to religious purposes. Not organized under the Texas Business Corporation Act. Operated by, responsible to, or associated with an organization of individuals devoted to religious purposes. Does not include those whose relationship with a religious organization is only for business, such as those who only lease space.

(I) ***State operated*** — Operated by, under the direct jurisdiction of, and responsible to an agency of the State of Texas.

(J) ***Other political subdivision*** — Operated by and under the jurisdiction of a county municipality, school district, or other political entity.

Governing Body Designee — The person named on the application as the designated representative of a governing body that is not a sole proprietorship or partnership.

Group — A specific number of children assigned to specific staff; each child in any group has the following in common with every other child in his group: (1) the same staff responsible for the child's basic needs, and (2) the same classroom or activity space.

Group Child Care — Care for seven or more children when at least one of the children is not related to the caregiver.

Handwashing — Rubbing hands together with soap under running water.

Health Personnel — A licensed physician, a licensed registered nurse, or a person providing preventive, diagnostic, or therapeutic medical care to individuals in the community.

Infant — A child younger than 18 months old.

Janitorial Functions — Those services which involve cleaning and maintenance above that which is required for the continuation of the day care program, such as cleaning carpets, washing cots, and the like. Sweeping after an activity or mopping up spills may be necessary for continued use of the classroom, but total sweeping, vacuuming, or mopping of a classroom is a janitorial function.

License — A complete document issued to the governing body of a center authorizing the licensee to operate at a specified location according to the provisions of the license, the law, and the rules and regulations of the Texas Department of Human Resources.

Neglect — Nonaccidental failure or threatened failure to provide a child with the physical and emotional requirements for life, growth, and development.

Night Care — Care given to children who are starting or continuing their night sleep or to children who spend the night at the center.

Parent — Used in this document to refer to parent, legal guardian, or managing conservator.

Plan of Operation — The form the department furnishes on which the governing body outlines the plans for operating the center.

Probation — A sanction placed on a center instead of revocation. Under probation, the center may remain open and continue to provide day care.

Provisional License — A license the department issues to a center whose plans meet the department requirements but which is (1) not currently operating, (2) not licensed for the location stated in the application, or (3) changing ownership.

Sanitary Sleeping Furnishings — Linens which have been laundered since a different person slept on them and after being soiled.

School-age Care — Care offered to children between the ages of 5 (before September of that school year) and 18.

Sexual Abuse or Sexual Molestation — Any sexually oriented act or practice involving staff or another adult and a child in care. Examples include, but are not limited to, fondling, sexual intercourse, sexual stimulation, sodomy, incest, rape, and using a child in sexually explicit films or pictures.

Single-use Areas — Include, but are not limited to, bathrooms, hallways, storage rooms, cooking areas of kitchens, and indoor swimming pools.

Staff — Any person responsible for working in contact with children whether paid or unpaid.

Supervision — Care for a child or group of children. This includes awareness of and responsibility for the ongoing activity of each child. It requires physical presence, knowledge of activity requirements and children's needs, and accountability for their care. This includes staff being near enough to children to intervene when needed.

Training — Time spent in workshops; conferences of child care, early childhood, or educational associations; formal schooling; self-instructional material; or planned learning opportunities provided by a director, other staff, or consultants. Training must be in subject areas such as child care, child development, and early childhood education. Training for directors may also be in supervision of staff or program administration.

Trash/Litter — Paper products, plastic, cloth, and the like.

Water Activities — Related to the use of splashing pools, wading pools, swimming pools, or other bodies of water.

INTRODUCTION

The Child Care Licensing Act of 1975, formerly Texas Revised Civil Statutes Annotated, Article 695a-3, is now Chapter 42 of the Human Resources Code. The correct citation is Human Resources Code, Chapter 42.

CHAPTER 42. REGULATION OF CHILD-CARE FACILITIES

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BEST COPY AVAILABLE

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 42.001. PURPOSE. The purpose of this chapter is to protect the health, safety, and well-being of the children of the state who reside in child-care facilities by establishing statewide minimum standards for their safety and protection and by regulating the facilities through a licensing program. It is the policy of the state to ensure the protection of all children under care in child-care facilities and to encourage and assist in the improvement of child-care programs. It is also the intent of the legislature that freedom of religion of all citizens is inviolate, and nothing in this chapter gives a governmental agency authority to regulate, control, supervise, or in any way be involved in the form, manner, or content of religious instruction or the curriculum of a school sponsored by a religious organization.

Sec. 42.002. DEFINITIONS. In this chapter:

(1) "Child" means a person under 18 years of age.

(2) "Division" means the division designated by the department to carry out the provisions of this chapter.

(3) "Child-care facility" means a facility that provides care, training, education, custody, treatment, or supervision for a child who is not related by blood, marriage, or adoption to the owner or operator of the facility, for all or part of the 24-hour day, whether or not the facility is operated for profit or charges for the services it offers.

(4) "Child-care institution" means a child-care facility that provides care for more than 12 children for 24 hours a day, including facilities known as children's homes, halfway houses, residential treatment camps, emergency shelters, and training or correctional schools for children.

(5) "Foster group home" means a facility that provides care for 7 to 12 children for 24 hours a day.

(6) "Foster family home" means a facility that provides care for not more than six children for 24 hours a day.

(7) "Day-care center" means a facility that provides care for more than 12 children under 14 years of age for less than 24 hours a day.

(8) "Group day-care home" means a facility that provides care for 7 to 12 children under 14 years of age for less than 24 hours a day.

(9) "Family home" means a home that regularly provides care in the caretaker's own residence for not more than six children under 14 years of age, excluding the caretaker's own children, and that provides care after school hours for not more than six additional elementary school children, but the total number of children, including the caretaker's own, does not exceed 12 at any given time.

(10) "Agency group home" means a facility that provides care for 7 to 12 children 24 hours a day and is used only by a licensed child-placing agency.

(11) "Agency home" means a private home that provides care for not more than six children, that is used only by a licensed child-placing agency, and that meets division standards.

(12) "Child-placing agency" means a person other than the natural parents or guardian of a child who plans for the placement of or places a child in an institution, agency home, or adoptive home.

(13) "Facilities" includes child-care facilities and child-placing agencies.

(14) "State of Texas" or "state" does not include political subdivisions of the state.

(Sections 42.003-42.020 reserved for expansion)

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

Sec. 42.021. DIVISION DESIGNATED. (a) The department shall designate a division within the department to regulate and license child-care facilities and child-placing agencies. The division shall enforce the provisions of this chapter and the rules and standards adopted by the department under this chapter and shall carry out other responsibilities the department may delegate or assign.

(b) The commissioner of the department shall appoint as director of the division a person who:

(1) meets the qualifications required of a child-care administrator by Chapter 43 of this code;

(2) holds a graduate degree in social science or law and has five years' administrative experience in a field related to child care; or

(3) has 10 years' experience in a field related to child care, at least 5 of which must be administrative.

(c) The department shall employ sufficient personnel and provide training for the personnel to carry out the provisions of this chapter.

(d) The director may divide the state into regions for the purpose of administering this chapter.

Sec. 42.022. STATE ADVISORY COMMITTEE. (a) The State Advisory Committee on Child-Care Administrators and Facilities is appointed by the board on the recommendation of the commissioner.

(b) Members of the committee serve for terms of two years.

(c) The board shall appoint the advisory committee to provide for balanced representation for:

(1) parents, guardians, or custodians of children who use the facilities;

(2) child advocacy groups;

(3) operators of the facilities;

(4) experts in various professional fields that are relevant to child care and development; and

(5) the general public.

(d) The division shall provide staff necessary for the committees.

(e) The committee shall review rules and minimum standards for child-care administrators, child-care facilities, and child-placing agencies promulgated by state agencies, and shall advise the department, the division, the council, and state agencies on problems of child-care administrators, child-care facilities, and child-placing agencies.

(f) The committee shall receive and review the annual report of the division.

(g) The board, on the recommendation of the commissioner, shall appoint an advisory subcommittee on child-care administration from the membership of the Advisory Committee on Child-Care Administrators and Facilities. The subcommittee shall advise the board on licensing child-care administrators, including the content of the examination administered to license applicants under Section 43.004 of this code. The subcommittee on child-care administration shall meet at the same time the committee meets.

Sec. 42.023. ANNUAL REPORT. (a) As part of the annual report required by Section 21.011 of this code, the commissioner shall include a written report regarding the division's activities under this chapter.

(b) The annual report shall include:

(1) a report by regions of applications for licensure or certification, of provisional licenses issued, denied, or revoked, of emergency closures and injunctions, and of the compliance of state-operated agencies with certification requirements;

(2) a summary of the amount and kind of in-service training and other professional development opportunities provided for division staff;

(3) a summary of training and other professional Development opportunities offered to facilities' staffs; and

(4) a report of new administrative procedures, of the number of staff and staff changes, and of plans for the coming year.

(c) Copies of the annual report shall be available to any state citizen on request.

Sec. 42.024. ADMINISTRATIVE PROCEDURE. The Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes) applies to all procedures under this chapter except where it is contrary to or inconsistent with the provisions of this chapter.

(Sections 42.025–42.040
reserved for expansion)

SUBCHAPTER C. REGULATION OF CHILD-CARE FACILITIES

Sec. 42.041. REQUIRED LICENSE. (a) No person may operate a child-care facility or child-placing agency without a license issued by the division.

(b) This section does not apply to:

(1) a state-operated facility;

(2) an agency home;

(3) a facility that is operated in connection with a shopping center, business, religious organization, or establishment where children are cared for during short periods while parents or persons responsible for the children are attending religious services, shopping, or engaging in other activities on or near the premises, including but not limited to retreats or classes for religious instruction;

(4) a school or class for religious instruction that does not last longer than two weeks and is conducted by a religious organization during the summer months;

(5) a youth camp licensed by the Texas Department of Health;

(6) a hospital licensed by the Texas Department of Mental Health and Mental Retardation or the Texas Department of Health;

(7) an educational facility accredited by the Central Education Agency or the Southern Association of Colleges and Schools that operates primarily for educational purposes in grades kindergarten and above;

(8) an educational facility that operates solely for educational purposes in grades kindergarten through at least grade two, that does not provide custodial care for more than one hour during the hours before or after the customary school day, and that is a member of an organization that promulgates, publishes, and requires compliance with health, safety, fire, and sanitation standards equal to standards required by state, municipal, and county codes;

(9) a kindergarten or preschool educational program that is operated as part of a public school or a private school accredited by the Central Education Agency, that offers educational programs through grade six, and that does not provide custodial care during the hours before or after the customary school day; and

(10) a family home, whether registered or not;

(11) an educational facility that is integral to and inseparable from its sponsoring religious organization or an educational facility both of which do not provide custodial care for more than two hours maximum per day, and that offers educational programs for children age five and above in one or more of the following: kindergarten through at least grade three, elementary, or secondary grades; or

(12) an agency group home.

(12) an emergency shelter facility providing shelter to minor mothers who are the sole support of their natural children under Section 35.05, Family Code, unless the facility would otherwise require a license under this section.

(c) A single license that lists addresses and the appropriate facilities may be issued to a child-care institution that operates noncontiguous facilities that are nearby and that are demonstrably a single operation as indicated by patterns of staffing, finance, administrative supervision, and programs.

(d) A person operating or desiring to operate a child-care facility that is exempt from the provisions of Subsection (a) of this section may apply to the division for a license as provided in Section 42.046 of this code. The division may not deny an exempt facility a license on the ground that it is exempt from Subsection (a) of this section. A facility exempt from the provisions of Subsection (a) of this section that desires to receive or participate in federal or state funding shall be required to comply with all other provisions of this Act and with all regulations promulgated thereunder.

(e) The exemptions provided by Subsection (b) of this section do not affect the authority of local, regional, or state health department officials, the state fire marshal, or local fire prevention officials to inspect child-care facilities.

Sec. 42.042. RULES AND STANDARDS. (a) The department shall make rules to carry out the provisions of this chapter.

(b) The department shall conduct a comprehensive review of all rules and standards at least every six years.

(c) The department shall provide a standard procedure for receiving and recording complaints and a standard form for recording complaints.

(d) The department shall provide standard forms for applications and inspection reports.

(e) The department shall promulgate minimum standards for child-care facilities covered by this chapter that will:

(1) promote the health, safety, and welfare of children attending a facility;

(2) promote safe, comfortable, and healthy physical facilities for children;

(3) ensure adequate supervision of children by capable, qualified, and healthy personnel;

(4) ensure adequate and healthy food service where food service is offered;

(5) prohibit racial discrimination by child-care facilities; and

(6) require procedures for parental and guardian consultation in the formulation of children's educational and therapeutic programs.

(f) In promulgating minimum standards for child-care facilities, the department shall recognize the various categories of facilities, including facilities offering specialized care, and the various categories of children and their particular needs. Standards for child-care institutions must require an intake study before a child is placed in an institution. The intake study may be conducted at a community mental health and mental retardation center.

(g) In promulgating minimum standards, the department may recognize and treat differently the following child-care facilities: child-caring institutions, foster homes, day-care centers, group day-care homes, family day homes, registered family homes, and agency homes.

(h) The department shall promulgate minimum standards for child-placing agencies.

(i) Before adopting minimum standards, the division shall present the proposed standards to the State Advisory Committee on Child-Care Facilities for review and comment, and shall send a copy of the proposed standards to each licensee covered by the proposed standards at least 60 days before the standards take effect to provide the licensee an opportunity to review and to send written suggestions to the council and the department.

(j) The department may waive compliance with a minimum standard in a specific instance if it determines that the economic impact of compliance is sufficiently great to make compliance impractical.

(k) The department may not regulate or attempt to regulate or control the content or method of any organization or curriculum of a school sponsored by a religious organization.

(l) The department shall adopt minimum standards regulating family homes that register with the division. The rules must address the minimum qualifications, education, and training required of a person who operates a family home registered with the division.

Sec. 42.043. RULES FOR IMMUNIZATIONS. (a) The department shall make rules for the immunization of children admitted to facilities.

(b) The department shall require that each child at an appropriate age have a test for tuberculosis and be immunized against diptheria, tetanus, poliomyelitis, rubella, and rubeola. The immunization must be effective on the date of first entry into the facility. However, a child may be provisionally admitted if the required immunizations have begun and are completed as rapidly as medically feasible.

(c) The Texas Department of Health shall make rules for the provisional admission of children to facilities and may modify or delete any of the immunizations listed in Subsection (b) of this section or require additional immunizations as a requirement for admission to a facility.

(d) No immunization may be required for admission to

a facility if a person applying for a child's admission submits one of the following affidavits:

(1) an affidavit signed by a licensed physician stating that the immunization would be injurious to the health and well-being of the child or a member of the child's family or household; or

(2) an affidavit signed by the child's parent or guardian stating that the immunization conflicts with the tenets and practices of a recognized religious organization of which the applicant is an adherent or a member.

(e) Each facility shall keep an individual immunization record for each child admitted, and the records shall be open for inspection by the division at all reasonable times.

(f) The Texas Department of Health shall provide the immunizations required by this section to children in areas where there is no local provision of these services.

Sec. 42.044. INSPECTIONS. (a) An authorized representative of the division may visit a facility during operating hours to investigate, inspect, and evaluate.

(b) The division shall inspect all licensed or certified facilities at least once a year and may inspect other facilities as necessary. At least one of the annual visits must be unannounced and all may be unannounced.

(c) The division must investigate a facility when a complaint is received. The division representative must notify the facility's director or authorized representative when a complaint is being investigated and report in writing the results of the investigation to the director or the director's authorized representative.

(d) The division may call on political subdivisions and governmental agencies for assistance within their authorized fields.

Sec. 42.045. RECORDS. (a) A person who operates a licensed or certified facility shall maintain individual child development records, individual health records, statistical records, and complete financial records.

(b) A person who operates a child-placing agency shall have an annual audit by a certified public accountant of the facility's books. The audit must include a statement of income and disbursements.

(c) If a child-placing agency terminates operation as a child-placing agency, it shall, after giving notice to the department, transfer its files and records concerning adopted children, their biological families, and their adoptive families to the department or to a facility licensed by the department to place children for adoption.

Sec. 42.046. LICENSE APPLICATION. (a) An applicant for a license to operate a child-care facility or child-placing agency shall submit to the division the appropriate fee prescribed by Section 42.054 of this code and a completed application on a form provided by the division.

(b) The division shall supply the applicant the application form and a copy of the appropriate minimum standards.

(c) After receiving an application, the division shall investigate the applicant and the plan of care for children.

(d) The division shall complete the investigation and decide on an application within two months after the date the division receives an application.

Sec. 42.047. CONSULTATIONS. (a) The department shall offer consultation to potential applicants, applicants, and license and certification holders about meeting and maintaining standards for licensing and certification and achieving programs of excellence in child care.

(b) The department shall offer consultation to prospective and actual users of facilities.

Sec. 42.048. ADVISORY OPINIONS. (a) The director of the division may give an advisory opinion on whether or not a planned facility or a planned change in an existing facility complies with the division's rules and minimum standards.

(b) A written opinion authorized by Subsection (a) of this section is binding on the division as a declaratory order if it is signed by the division director and the division representative administering this chapter in a division region, and if an applicant or license holder has acted in reliance on the opinion.

Sec. 42.049. LICENSING. (a) The division shall issue a license after determining that an applicant has satisfied all requirements.

(b) When issuing a license, the division may impose restrictions on a facility, including but not limited to the number of children to be served and the type of children to be served.

(c) The division may grant a variance of an individual standard set forth in the applicable standards for good and just cause.

(d) A license holder must display a license issued under this chapter in a prominent place at the facility.

(e) A license issued under this chapter is not transferable and applies only to the operator and facility location stated in the license application. A change in location or ownership automatically revokes a license.

(f) A license must be issued if the division determines that a facility meets all requirements. The evaluation shall be based on a specified number of visits to the facility and a review of all required forms and records. A license is valid until revoked or surrendered.

Sec. 42.050. LICENSE RENEWAL. (Repealed by S.B. 1162, Acts of the 70th Legislature, Regular Session, 1987.)

Sec. 42.051. PROVISIONAL LICENSE. (a) The division shall issue a provisional license when a facility's plans meet the department's licensing requirements and one of the following situations exists:

(1) the facility is not currently operating;

(2) the facility has relocated and has made changes in the type of child-care service it provides; or

(3) there is a change in ownership of the facility result-

ing in changes in policy and procedure or in the staff who have direct contact with the children.

(b) A provisional license is valid for six months from the date it is issued and is not renewable.

Sec. 42.052. CERTIFICATION AND REGISTRATION. (a) A state-operated child-care facility or child-placing agency must receive certification of approval from the division. The certification of approval remains valid until revoked or surrendered.

(b) To be certified, a facility must comply with the department's rules and standards and any provisions of this chapter that apply to a licensed facility of the same category. The operator of a certified facility must display the certification in a prominent place at the facility.

(c) A family home that provides care for three or fewer children, excluding the caretaker's own children may register with the division. A family home that provides care for four or more children, excluding the caretaker's own children, must register with the division. A registration remains valid until revoked or surrendered. The operator of a registered home must display the registration in a prominent place at the home.

(d) To remain registered with the division, a family home must comply with the department's rules and standards and any provision of this chapter that applies to a registered family home.

(e) The certification requirements of this section do not apply to a Texas Youth Council facility or a facility providing services solely for the Texas Youth Council.

(f) A family home may not place a public advertisement that uses the title "registered family home" or any variation of the phrase unless the home is registered with the division under this chapter. Any public advertisement for a registered family home which uses "registered family home" must contain a provision in bold type stating: "THIS HOME IS REGISTERED WITH THE TEXAS DEPARTMENT OF HUMAN SERVICES BUT IS NOT LICENSED OR INSPECTED."

Sec. 42.0521. DEPOSIT OF FEES. The fees authorized by this chapter and received by the department shall be deposited in the general revenue fund.

Sec. 42.053. AGENCY HOMES AND AGENCY GROUP HOMES. (a) An agency home or agency group home is considered part of the child-placing agency that operates the agency home for purposes of licensing.

(b) The operator of a licensed agency shall display a copy of the license in a prominent place in the agency home or agency group home used by the agency.

(c) An agency home or agency group home shall comply with all provisions of this chapter and all department rules and standards that apply to a child-care facility caring for a similar number of children for a similar number of hours each day.

(d) The division shall revoke or suspend the license of a child-placing agency if an agency home or agency group home operated by the licensed agency fails to comply with Subsection (c) of this section.

Sec. 42.054. FEES. (a) The division shall charge a nonrefundable application fee of $35 to an applicant for an initial license to operate a child-care facility or a child-placing agency.

(b) The division shall charge each child-care facility a fee of $35 for a provisional license. The division shall charge each child-placing agency a fee of $50 for a provisional license.

(c) The division shall charge each child-care facility an annual license fee in the amount of $35 for each child-care facility plus $1 for each child the child-care facility is permitted to serve. The fee is due on the date on which the division issues the child-care facility's license and on the anniversary of the date.

(d) The division shall charge each child-placing agency an annual license fee of $100. The fee is due on the date on which the division issues the child-placing agency's license and on the anniversary of that date.

(e) The division shall charge each family home that is registered with the division an annual registration fee of $35 to cover the department's cost in regulating family homes. The fee is due on the date on which the division registers the home and on the anniversary of that date.

(f) If a facility, agency, or home fails to pay the annual license or registration fee when due, the license or registration is suspended until the fee is paid.

(g) The provisions of Subsections (b) through (f) of this section do not apply to:

(1) licensed foster family homes and licensed foster family group homes;

(2) Nonprofit facilities regulated under this chapter that provided 24-hour care for children in the managing conservatorship of the department during the 12-month period immediately preceding the anniversary date of the facility's license; or

(3) facilities operated by a non-profit corporation or foundation that provides 24-hour residential care and does not charge for the care provided.

Sec. 42.056. SIGN POSTING. (a) Each child care facility shall post in a location that is conspicuous to all employees and customers a sign than includes:

(1) a description of the provisions of Chapter 34, Family Code, relating to the duty to report child abuse or neglect; and

(2) a description of the penalties for violating the reporting provisions of Chapter 34, Family Code.

(b) The department by rule shall determine the design, size, and wording of the sign.

(c) The department shall provide the sign to each child care facility without charge.

(d) A person who operates a child care facility commits an offense if the department provides a sign to the facility as provided by this section and the person intentionally fails to display tthe sign in the facility as prescribed by this section. An offense under this subsection is a Class C misdemeanor.

(Sections 42.057-42.070
reserved for expansion)

SUBCHAPTER D. REMEDIES

Sec. 42.071. LICENSE SUSPENSION, EVALUATION, OR PROBATION. (a) The division may suspend the license of a facility that has temporarily ceased operation but has definite plans for starting operations within the time limits of the issued license.

(b) The division may suspend a facility's license for a definite period rather than deny or revoke the license if the division finds repeated noncompliance with standards that do not endanger the health and safety of children. To qualify for license suspension under this subsection, a facility must suspend its operations and show that standards can be met within the suspension period.

(c) If the division finds a facility is in repeated noncompliance with standards that do not endanger the health and safety of children, the division may schedule the facility for evaluation or probation rather than suspend or revoke the facility's license. The division shall provide notice to the facility of the evaluation or probation and of the items of noncompliance not later than the 10th day before the evaluation or probation period begins. The division shall designate a period of not less than 30 days during which the facility will remain under evaluation. During the evaluation or probation period, the facility must correct the items that were in noncompliance and report the corrections to the division for approval.

(d) The division shall revoke the license of a facility that does not comply with standards at the end of a license suspension.

(e) The division may suspend or revoke the license of a facility that does not correct items that were in noncompliance or that does not comply with required standards within the applicable evaluation or probation period.

Sec. 42.072. LICENSE DENIAL OR REVOCATION. (a) The division may deny or revoke the license or certification of approval of a facility that does not comply with the requirements of this chapter, the standards and rules of the department, or the specific terms of the license or certification.

(b) The division shall notify the person operating or proposing to operate a facility of the reasons for the denial or revocation and of the person's right to appeal the decision within 30 days after receiving the notice.

(c) A person who wishes to appeal a license denial or revocation shall notify the director by certified mail within 30 days after receiving the notice required in Subsection (b) of this section. The person shall send a copy of the notice of appeal to the assigned division representative.

(d) Within 14 days after the date the appeal notification was mailed, the director shall appoint an advisory review board to hear the appeal or notify the person requesting the appeal that the request is denied.

(e) Within 14 days after notifying a person that an advisory review board will hear the case, the director shall appoint five of the person's peers to the board and set a date for the hearing. The date for the hearing must be within 28 days after the date the board members are appointed.

(f) The advisory review board shall hear the appeal and render its opinion to the director within seven days after the last day of the hearing. The board members shall receive actual travel expenses and the state per diem for each day of the hearing.

(g) A committee composed of the director, the division representative responsible for establishing standards, and the division representative administering this chapter in the region where the facility in question is located shall review the opinion. The committee shall make a decision within 14 days after receiving the opinion and shall notify, by certified mail, the person who appealed.

(h) A person whose license has been denied or revoked may challenge the committee's decision by filing a suit in a district court of Travis County or the county in which the person's facility is located within 30 days after receiving the committee's decision. The trial shall be de novo.

(i) Records of the department's hearing shall be kept for one year after a committee decision is rendered. On request, and at the person's own expense, the division shall supply a copy of the verbatim transcript of the advisory board hearing to a person appealing a license denial or revocation in district court.

(j) A person may continue to operate a facility during an appeal of a license denial or revocation unless the division has sought injunctive relief under Section 42.074 or civil penalities under Section 42.075 of this code.

Sec. 42.073. CLOSING A FACILITY. (a) The division may close the facility and place the children attending the facility in another facility if the division finds violations of this chapter or violations of the department's rules and standards that create an immediate danger for children.

(b) A division representative who finds conditions described in Subsection (a) of this section shall immediately notify the director and request an immediate inspection of the facility by the director or the director's designee.

(c) The division shall report to the governor and the commissioner of the department when a state-operated facility is found in violation of this chapter or the department's rules and standards and the violation threatens serious harm to the children in the facility.

(d) Closing a facility under this section is an emergency measure. The division shall seek an injunction against continued operation of the facility after closing a facility under this section.

Sec. 42.074. INJUNCTIVE RELIEF. (a) When it appears that a person has violated, is violating, or is threatening to violate the licensing, certification, or regis-

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tration requirements of this chapter or the department's licensing, certification, or registration rules and standards, the division may file a suit in a district court in Travis County or in the county where the facility is located for assessment and recovery of civil penalties under Section 42.075 of this code, for injunctive relief, including a temporary restraining order, or for both injunctive relief and civil penalties.

(b) The district court shall grant the injunctive relief the facts may warrant.

(c) At the division's request, the attorney general or the county or district attorney of the county in which the facility is located shall conduct a suit in the name of the State of Texas for injunctive relief, to recover the civil penalty, or for both injunctive relief and civil penalties as authorized by Subsection (a) of this section.

Sec. 42.075. CIVIL PENALTY. (a) A person is subject to a civil penalty of not less than $50 nor more than $100 for each day of violation and for each act of violation if the person:

(1) threatens serious harm to a child in a facility by violating a provision of this chapter or a department rule or standard;

(2) violates a provision of this chapter or a department rule or standard three or more times within a 12-month period; or

(3) places a public advertisement for an unlicensed facility.

(b) The civil penalty authorized by this section is cumulative and in addition to the criminal penalties and injunctive relief provided by this chapter.

Sec. 42.076. CRIMINAL PENALTIES. (a) A person who operates a child-care facility or child-placing agency without a license commits a Class B misdemeanor.

(b) A person who places a public advertisement for an unlicensed facility commits a Class C misdemeanor.

(c) A person who places an advertisement for a registered family home in violation of Section 42.052(f) of this code commits a Class C misdemeanor.

Sec. 42.077. NOTICE OF ACTION AGAINST FACILITY. (a) If the department revokes or suspends a facility's license, the department shall publish notice of this action in a newspaper of general circulation in the county in which the facility is located. The newspaper shall place the notice in the section in which advertisements for day-care services are normally published.

(b) If a person who operates a facility that has had its license revoked or suspended later applies for a new license to operate the same facility, the department shall charge the person an application fee in an amount necessary to reimburse the department for the cost of the notice relating to that facility.

(c) The department shall pay for publication of the notice for funds appropriated to the department for licensing and regulating child-care facilities and from appeal and application fees collected under Subsection (b) of this section and appropriated to the department.

(d) A facility that has its license revoked or suspended shall mail notification of this action by certified mail to the parents or guardian of the child served by the facility. The facility shall mail the notification within five days of the effective date of the license revocation or suspension.

CHAPTER 17. EMERGENCY PROCEDURES IN SUIT BY GOVERNMENTAL ENTITY

Section 17.03. Taking Possession of a Child Without a Court Order. (a) An authorized representative of the Texas Department of Human Resources, a law enforcement officer, or a juvenile probation officer may take possession of a child without a court order under the following conditions and no others:

(1) upon discovery of a child in a situation of danger to the child's physical health or safety when the sole purpose is to deliver the child without unnecessary delay to the parent, managing conservator, possessory conservator, guardian, caretaker, or custodian who is presently entitled to possession of the child;

(2) upon the voluntary delivery of the child by the parent, managing conservator, possessory conservator, guardian, caretaker, or custodian who is presently entitled to possession of the child;

(3) upon personal knowledge of facts which would lead a person of ordinary prudence and caution to believe that there is an immediate danger to the physical health or safety of the child and that there is no time to obtain a temporary restraining order or attachment under Section 17.02 of this code; or

(4) upon information furnished by another which has been corroborated by personal knowledge of facts and all of which taken together would lead a person of ordinary prudence and caution to believe that there is an immediate danger to the physical health or safety of the child and that there is no time to obtain a temporary restraining order or attachment under Section 17.02 of this code.

(See the full text of Section 17.03 for specifics on the court hearings which follow taking possession of a child in an emergency.)

CHAPTER 34. REPORT OF CHILD ABUSE

Section 34.01.	Persons Required to Report
Section 34.011.	Form
Section 34.02.	Contents of Report: To Whom Made
Section 34.03.	Immunities
Section 34.04.	Privileged Communications
Section 34.05.	Investigation and Report of Receiving Agency
Section 34.06.	Central Registry
Section 34.07.	Failure to Report; Penalty
Section 34.08.	Confidentiality

Section 34.01. Persons Required to Report. Any person having cause to believe that a child's physical or mental health or welfare has been or may be adversely affected by abuse or neglect shall report in accordance with Section 34.02 of this code.

Section 34.011. Form. The Texas Department of Human Resources shall promulgate a form and cause a sample to be distributed for the reporting of suspected occurrences of child abuse as required by Section 34.01 of this code. Copies of the form shall be distributed to all licensed hospitals in this state to be available for use without charge by hospital employees, physicians, patients, and other persons. The form shall include a statement that child abuse reports are confidential and that information contained in the reports, including the name of the person making the report, may be used only for the purposes consistent with the investigation of child abuse. The form shall give the address of the Texas Department of Human Resources. Hospital employees, physicians, patients, and other persons must complete the form and return it to the Texas Department of Human Resources.

Section 34.02. Contents of Report: To Whom Made. (a) Nonaccusatory reports reflecting the reporter's belief that a child has been or will be abused or neglected, or has died of abuse or neglect, has violated the compulsory school attendance laws on three or more occasions, or has, on three or more occasions, been voluntarily absent from his home without the consent of his parent or guardian for a substantial length of time or without the intent to return shall be made to any local or state law enforcement agency, and in addition shall be made to:

(1) the Texas Department of Human Resources; or

(2) the agency designated by the court to be responsible for the protection of children.

(b) All reports must contain the name and address of the child, the name and address of the person responsible for the care of the child, if available, and any other pertinent information.

(c) All reports received by any local or state law enforcement agency shall be referred to the Texas Department of Human Resources or to the agency designated by the court to be responsible for the protection of children. The department or designated agency immediately shall notify the appropriate state or local law enforcement agency of any report it receives, other than from a law enforcement agency, that concerns the suspected abuse or neglect of a child or death of a child from abuse or neglect.

(d) An oral report shall be made immediately on learning of the abuse or neglect as prescribed in Subsection (a) of this section, and a written report shall be made within five days to the same agency or department. Anonymous reports, while not encouraged, will be received and acted on in the same manner as acknowledged reports.

Section 34.03. Immunities. Any person reporting pursuant to this chapter is immune from liability, civil or criminal, that might otherwise be incurred or imposed. Immunity extends to participation in any judicial proceeding resulting from the report. Persons reporting in bad faith or malice are not protected by this section.

Section 34.04. Privileged Communications. In any proceeding regarding the abuse or neglect of a child or the cause of any abuse or neglect, evidence may not be excluded on the ground of privileged communication except in the case of communications between attorney and client.

Section 34.05. Investigation and Report of Receiving Agency. (a) The Texas Department of Human Resources or the agency designated by the court to be responsible for the protection of children shall make a thorough investigation promptly after receiving either the oral or written report. The primary purpose of the investigation shall be the protection of the child.

(b) In the investigation the department or agency shall determine:

(1) the nature, extent, and cause of the abuse or neglect;

(2) the identity of the person responsible for the abuse or neglect;

(3) the names and conditions of the other children in the home;

(4) an evaluation of the parents or persons responsible for the care of the child;

(5) the adequacy of the home environment;

(6) the relationship of the child to the parents or persons responsible for the care of the child;

(7) all other pertinent data.

(c) The investigation shall include a visit to the child's home, a physical examination of all the children in that home, and an interview with the subject child. The investigation may include a psychological or psychiatric examination of all the children in the home. If admission to the home, school, or any place where the child may be, or permission of the parents or persons responsible for the child's care for the physical examination cannot be obtained, then the juvenile court, or the district court, upon cause shown, shall order the parents or the persons responsible for the care of the children, or the person in charge of any place where the child may be, to allow entrance for the interview, the physical examination, and investigation. If the parents or persons responsible for the child's care does not consent to a psychological or psychiatric examination of the child that is requested by the department or agency, the juvenile court or district court, upon cause shown, shall order the examination to be made at the times and places designated by the court. The parent or person responsible for the child's care is entitled to notice and a hearing when the department or agency seeks a court order to allow a psychological or psychiatric examination.

(d) If, before the investigation is complete, the opinion of the investigators is that immediate removal is necessary to protect the child from further abuse or neglect, the investigators shall file a petition pursuant to Chapter 17 of this code for temporary care and protection of the child.

(e) The agency designated by the court to be responsible for the protection of children or the department shall make a complete written report of the investigation. The report, together with its recommendations, shall be submitted to the juvenile court of the district court, the district attorney, and the appropriate law enforcement agency if sufficient grounds for the institution of a suit affecting the parent-child relationship are found.

(f) On the receipt of the report and recommendation required by Subsection (e) of this section, the court may direct the investigator to file a petition seeking appropriate relief under Subtitle A of this title.

Section 34.06. Central Registry. The Texas Department of Human Resources shall establish and maintain in Austin, Texas, a central registry of reported cases of child abuse or neglect. The department may adopt rules and regulations as are necessary in carrying out the provisions of this section. The rules shall provide for cooperation with local child service agencies, including hospitals, clinics, and schools, and cooperation with other states in exchanging reports to effect a national registration system.

Section 34.07. Failure to Report: Penalty. (a) A person commits an offense if the person has cause to believe that a child's physical or mental health or welfare has been or may be further adversely affected by abuse or neglect and knowingly fails to report in accordance with Section 34.02 of this code.

(b) An offense under this section is a Class B misdemeanor.

Section 34.08. Confidentiality. The reports, records, and working papers used or developed in an investigation made under this chapter are confidential and may be disclosed only for purposes consistent with the purposes of this code under regulations adopted by the investigating agency.

APPENDIX III
CHILD CARE FACILITY
IMMUNIZATION REQUIREMENTS

Age Group	Required Immunization and Number of Doses
Under 2 mos.	No immunizations required.
2 mos. to 4 mos.	1 dose of oral polio vaccine (OPV). 1 dose of diphtheria-tetanus-pertussis (DTP) vaccine.
4 mos. to 6 mos.	2 doses of OPV. 2 doses of DTP vaccine.
6 mos. to 18 mos.	2 doses of OPV. 3 doses of DTP vaccine.
18 mos. to 5 yrs.	3 doses each of OPV and DTP vaccine. 1 dose each of measles[1], rubella[2], and mumps[3] vaccines.
5 yrs. and older	3 doses each of OPV[4] and DTP[4] vaccine. 1 dose each of measles[1], rubella[2], and mumps[3] vaccines.

NOTES:

[1]***Measles:*** Measles vaccine is required for each child 18 months old or older. The vaccination date for the measles vaccine must be during the calendar month of or after the first birthday and since January 1, 1968. A written physician-verified history of measles disease which shows the date of the illness will substitute for the measles vaccine requirements.

[2]***Rubella:*** Rubella vaccine is not required after the 12th birthday. A history of rubella illness is not acceptable.

[3] ***Mumps:*** As a part of the child's immunization record, a written physician-verified history of mumps disease which shows the date of the illness will substitute for the vaccine requirement. Effective September 1, 1984, children less than 13 years old are required to have received mumps vaccine or provide a written physician-verified history of mumps illness. On September 1 each following year, children one year older must also meet this requirement. By September 1, 1990, all children through 18 years old will be included. See the table below.

Mumps Vaccine Requirements by Effective Dates for Children 18 Months through 18 Years of Age In Child Care Facilities

Effective Dates	*Ages in Years**
September 1, 1984	Thru 12
September 1, 1985	Thru 13
September 1, 1986	Thru 14
September 1, 1987	Thru 15
September 1, 1988	Thru 16
September 1, 1989	Thru 17
September 1, 1990	Thru 18

*Ages of children in child care facilities on the effective date.

[4] ***Polio:*** At least three doses of oral polio vaccine (OPV) are required for all children, provided at least one dose has been received on or after the 4th birthday. A dose of OPV given during the calendar month before the 4th birthday will substitute for the dose on or after the 4th birthday. No further doses of OPV are required.

Some children or students may be enrolled who have received inactivated polio vaccine (IPV). These students are in full compliance when an initial series of four doses are completed and a booster dose within five years of the fourth dose has been received. A booster dose is required every five years thereafter.

[5] ***Diptheria - Tetanus - Pertussis/Tetanus - Diphtheria:*** DPT/TD vaccine is required for all children. At least three doses of DTP and/or Td vaccine are required, provided at least one dose has been received on or after the 4th birthday. A dose of DTP or Td given during the calendar month before the 4th birthday will substitute for the dose on or after the 4th birthday.

Besides the minimum of three DTP or Td doses with one dose since the 4th birthday, children 12 years old and older must have a last dose within the past 10 years. (A Td booster is required 10 years after the administration of the immunization that meets the requirement for the "dose since the 4th birthday." Example: If the last dose of DTP was received at age five, the 10-year Td booster is due at age 15.)

[6] An Annual Report of the Immunization Status by age group of all children must be submitted on the request of the Texas Department of Health.

Amounts of Foods to be Served to Meet Nutritional Needs

Kinds of Food	Total Amount To Meet 1/2 of Daily Need
1. Milk or Milk Products	
Milk	1 1/4 cups
or	
Cheese	2 ounces
2. Bread and Cereal Products	
Bread	2 slices
or	
Cereal	1 cup
3. Vegetables and Fruits including 1/4 cup vitamin C-rich fruit or vegetable each day and 1/4 cup vitamin A-rich fruit or vegetable 3 times each week	3/4 cup
4. Protein	
Meat, Fish, Poultry (cooked)	3 tablespoons or 1 1/2 ounces
or	
Eggs	1 egg
or	
Cooked Dried Beans or Peas	3/8 cup
or	
Cheese	1 1/2 ounces

One tablespoon peanut butter can be substituted for 1 tablespoon of meat.

Examples of Kinds of Foods To Be Served To Meet Nutritional Needs

1) **Milk or Milk Products**

Milk	Cheese*	Food made with required amounts of milk, such as custards or puddings
Whole	Cheddar	
Low Fat	American	
Skim	Cottage+	
Non Fat	Monterey Jack	
Dry	Swiss	
Buttermilk	Mozzarella	
	Ricotta+	

+Double serving is required.

*Do not count the same slice of cheese as both milk and meat.

2) **Vegetables and Fruits**

a) Vitamin A Foods

VEGETABLES

Bean sprouts (mung)
Broccoli
Carrots
Greens
chard, lambsquarter, chicory, dandelion, collards, mustard kale, turnip
Spinach
Squash, winter
Sweet potatoes

FRUITS

Apricots
Cantaloupe
Purple plums (canned)
Mangos
Persimmons
Prunes, dry, uncooked

b) Other Vegetables and Fruits

VEGETABLES

Bean sprouts
Beans
lima, green, wax, pinto, kidney garbanzo, mung, great northern, soy, navy
Beets
Celery
Corn
Cucumbers
Eggplant
Lettuce
Mushrooms
Okra
Onions
Peas
green, blackeye,
Radishes
Rutabaga
Squash, summer
Parsnips

FRUITS

Apples
Avocados
Bananas
Blackberries
Blueberries
Cherries
Cranberries
Boysenberries
Dates
Figs
Fruit Cocktail
Grapes
Olives
Peaches
Pears
Pineapple
Plums
Raspberries
Raisins
Rhubarb
Watermelon
Juice
apple, grape, pineapple, cranberry

c) Vitamin C Foods

FRUITS

Orange juice
Oranges
Grapefruit
Grapefruit juice
Mangos
Strawberries
Tangerines
Cantaloupe

VEGETABLES

Bean sprouts (mung)
Broccoli
Green peppers
Brussel sprouts
Cauliflower
Kohlrabi
Greens
lambsquarter, kale, spinach, mustard
Tomatoes
Cabbage
Potatoes

*Do not count the same slice of cheese as both milk and meat.

3) **Protein**

Meat-canned, dried, fresh, and frozen

Beef
Lamb
Pork
Veal
Luncheon meats
Liver and other organ meats
Chicken
Turkey
Fish/shellfish
*Cheese
Peanut butter
Eggs
Dry beans
Dry peas
Lentils
Vegetable protein

*Do not count the same slice of cheese as both milk and meat.

4) **Breads and Cereals**

All of the following must be enriched or whole grain.

Sliced Breads
French, raisin, rye, soy, white, whole wheat

Bread sticks
Boston brown bread
Fruit breads
Crackers
graham
saltines
soda
melba toast
zweiback
Rolled wheat or oats
Biscuits
Cornbread
English muffins
Soft pretzels
Croissants
Tortillas
Prepared cereals
Spaghetti
Macaroni
Noodles
Sopaipillas
Pancakes
Waffles
Spoon bread
Muffins
Sweet rolls
Barley
Grits
Bulgar
Rolls
Farina
Dumplings
Hush puppies
Rice

EXAMPLE MEAL PATTERN

The following meal pattern is an aid to menu planning. This distribution of food is not required as long as the total required servings are met during the day.

	Possible Food Choices	
Breakfast or AM Snack	Milk Milk Product	1/2 cup
	Bread/Cereal	1 slice or 1 ounce
Lunch	Milk and/or Milk Product	3/4 cup
	Protein	1 1/2 ounces
	Vegetable 1	1/4 cup
	Vegetable 2	1/4 cup
	Bread	1 slice
PM Snack	Fruit or Fruit Juice	1/4 cup

Example Menu Following Meal Pattern

Breakfast or AM Snack	Lunch	PM Snack
Milk	Milk	Orange Juice
Cereal	Roast Beef	
	New Potatoes	
	Spinach	
	Whole Wheat Bread	

APPENDIX V
ALTERNATIVES TO PHYSICAL PUNISHMENT

1. Children should have good behavior recognized and encouraged.

2. Children should be taught by example through the use of fair and consistent rules. The atmosphere should be relaxed. Discipline should be relevant to the behavior involved.

3. Children should be supervised by people showing an attitude of understanding and firmness.

4. Children should be given clear directions and guidance on the child's level of understanding.

5. Children should be held firmly if their behavior will harm themselves or others.

6. Children should be redirected by stating alternatives when their behavior is unacceptable. (Example: "Blocks are for building, not throwing — try throwing this ball.")

7. Children should be helped to understand why their conduct is unacceptable and what is acceptable in a given situation.

COMMUNICABLE DISEASE CHART FOR SCHOOLS AND CHILD-CARE CENTERS

Your Health Department: _____

Phone: _____

CONDITION	INCUBATION PERIOD	EARLY SIGNS OF ILLNESS	EXCLUDE FROM ATTENDANCE [1]	READMISSION CRITERIA [2]	REPORTABLE DISEASE	NOTES FOR PREVENTION
Athlete's Foot	Unknown	Blisters and cracking of the skin of the feet usually between the toes	No		No	Teach importance of hygienic care of feet
Chickenpox	10 21 days	Fever and rash consisting of blisters that may appear first on head then spread to body Usually 2 or 3 crops of new blisters that heal leaving scabs	Yes	When all blisters have crusted over (but not longer than 1 week after onset of rash)	Yes	No vaccine available
Common Cold	1 3 days	Runny nose watery eyes general tired feeling	No unless fever is present (See Fever)	When fever subsides	No	Teach importance of washing hands and covering mouth when coughing or sneezing
Diphtheria	2 5 days	Sore throat and fever rapidly progressing to difficulty breathing and swallowing	Yes	See Footnote 2(A B)	Yes	Vaccine available If you suspect this disease immediately consult a physician
Fever		Oral temperature of 38 °C (100 4 °F) or greater	Yes	When fever subsides	No	
Gastrointestinals Viral	Variable usually 2 7 days	Stomachache nausea diarrhea (6 or more watery loose stools per day)	Yes	When diarrhea subsides	No	Teach importance of hand washing Adult should supervise hand washing of preschool age children
Giardiasis	4 14 days	Gradual onset of stomachache bloating and diarrhea May recur several times over a period of weeks	No		No	Treatment is recommended Teach importance of hand washing Can spread quickly in child care centers
Gonorrhea	3 5 days	**Male** — urethral discharge (drip) with burning on urination **Female** — May have no symptoms or may have vaginal discharge and abdominal pain especially with menses	No		Yes	Teach junior and senior high school students about sexually transmitted diseases Report suspected cases to health department or by calling the VD Hot Line 1 800 227 8922
Head Lice (Pediculosis)	Eggs hatch in 7 10 days	Itching and scratching of scalp Pinpoint white eggs (nits) on head that will not flick off	Yes	When one medicated shampoo or lotion treatment has been given	No	Second shampoo or lotion treatment in 7 10 days is recommended Teach importance of not sharing combs hats and coats
Hepatitis Viral Type A	15 50 days average 28 days	Gradual onset of slight fever tired feeling stomachache nausea or vomiting followed by jaundice Young children may have mild case of diarrhea without jaundice	Yes	After 1 week from onset of illness	Yes	Teach importance of hand washing Gamma globulin should be given to household contacts If more than one case occurs in a child care center gamma globulin should be considered for all children and parents involved
Hepatitis Viral Type B	30 90 days	Gradual onset of fever tired feeling loss of appetite followed by jaundice	No		Yes	Neither cases nor carriers excluded from attendance Teach importance of good hygiene and avoid contact with blood of recent cases or chronic carriers
Herpes Oral (cold sores)	First infection 3 12 days	Blisters on or near lips that open and become covered with dark crust Recurrences are common	No		No	Teach importance of good hygiene Avoid direct contact with sores
Impetigo	Variable	Blisters on skin that open and become covered with yellowish crust No fever	Yes	When treatment begun	No	Keep lesions covered while in school Teach importance of hand washing and keeping fingernails clean
Influenza	1 3 days	Rapid onset of fever headache sore throat cough	Yes	When fever subsides	Yes	Vaccine available But only recommended for children with certain chronic diseases
Measles (Rubeola)	7 14 days	Runny nose watery eyes fever cough Blotchy red rash appears on 4th day	Yes	After 4 days from appearance of rash In an outbreak unimmunized children should also be excluded for at least 4 days after last case occurs	Yes	Vaccine available Report suspect cases immediately to health department or by calling the Texas Immunization Hot Line 1 800 252 9152
German Measles (Rubella)	14 21 days	Slight cold swollen tender glands at back of neck Changeable pink rash	Yes	After 5 days from appearance of rash	Yes	Vaccine available Report suspect cases immediately to health department or by calling the Texas Immunization Hot Line 1 800 252 9152

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Meningitis Bacterial	2 10 days	Sudden onset of high fever headache and stiff neck usually with some vomiting	Yes	See Footnote 2(A B)	Yes	Depending on which bacteria are causing the illness prophylactic antibiotics may be recommended for family members Occasionally close contacts of a child care center are also treated
Meningitis Viral	2 10 days	Sudden onset of fever headache usually with some vomiting	Yes	See Footnote 2(A B)	Yes	Teach importance of hand washing Prophylactic antibiotics of no value
Mumps	12 26 days	Swelling over jaw in front of one or both ears Pain in cheeks made worse by chewing	Yes	After 9 days from the onset of swelling	Yes	Vaccine available
Pink Eye (Conjunctivitis)	1 3 days	Red eyes usually with some discharge or crust on eyelids	Yes	See Footnote 2(A B)	No	Teach importance of hand washing allergic conjunctivitis is not contagious
Pinworms	Variable may be as long as 36 months	Personal itching	No		No	Teach importance of hand washing
Poliomyelitis (Polio)	3 21 days	Fever headache stomachache stiff neck usually with some vomiting Often followed by paralysis	Yes	See Footnote 2(A B)	Yes	Vaccine available Report cases immediately to health department or by calling the Texas Immunization Hot Line 1 (800 252 9152
Rocky Mountain Spotted Fever	3 10 days	Sudden onset of fever chills and severe headache Rash consists of red spots beginning on wrists or ankles progressing to the chest palms and soles	No		Yes	Transmitted by tick bites If you suspect this disease immediately consult a physician
Ringworm of the body	4 10 days	Slowly spreading flat scaly ring shaped spots on skin The margins may be reddish and slightly raised	No		No	Treatment is recommended Keep lesions covered while in school
Ringworm of the scalp	10 21 days	Slowly spreading balding patches on scalp with broken off hairs	Yes	When treatment begun	No	Teach importance of not sharing combs hats and coats
Salmonellosis	1 3 days	Sudden onset of fever abdominal pain diarrhea sometimes vomiting	Yes	When diarrhea subsides	Yes	Teach importance of hand washing Frequently a food borne infection
Scabies	First infection 1 month Repeat infection 2 5 days	Small raised red bumps or blisters on skin with severe itching	Yes	When treatment begun	No	Careful examination of close contacts required to identify early infection
Shigellosis	1 7 days	Sudden onset of fever vomiting and diarrhea	Yes	When diarrhea subsides	Yes	Teach importance of hand washing Can spread quickly in child care centers
Streptococcal Sore Throat and Scarlet Fever	1 3 days	Fever sore throat often with enlarged tender lymph nodes in neck Scarlet fever producing strains of bacteria cause a fine red rash that appears 1 3 days after onset of sore throat	Yes	After 24 hours from date antibiotic treatment begun	Yes	Teach importance of covering mouth when coughing or sneezing
Tetanus	4 21 days	Painful muscular contractions — primarily of jaw and neck muscles No fever	No		Yes	Transmitted by contamination of a wound with bacterial spores Vaccine available If you suspect this disease immediately consult a physician
Tuberculosis Pulmonary	4 12 weeks	Gradual onset tiredness loss of appetite slight fever failure to gain weight cough	Yes	After antibiotic treatment begun AND a physician s certificate or health authority permit obtained	Yes	All classroom contacts should have TB skin tests Antibiotic prophylaxis indicated for newly positive reactors
Whooping Cough (Pertussis)	7 21 days	Low grade fever runny nose and cough lasting about 2 weeks followed by paroxysmal coughing spells and whoop on inspiration	Yes	After 7 days from date antibiotic treatment begun	Yes	Vaccine available Unimmunized contacts should be immunized and receive antibiotic prophylaxis Report suspect cases immediately to health department or by calling the Texas Immunization Hot Line 1 (800 252 9152

The major criterion for exclusion from attendance is the condition s probability of spread from person to person A child may have a communicable illness yet require care at home or in a hospital

*Children excluded from a school or child care center for a communicable disease may be readmitted by any one of the following methods
(A) A written certificate from a physician
(B) A permit issued by the local health authority
(C) If utilizing criteria listed under Readmission Criteria

*A school or child care center administrator may require a note from a parent or physician for readmission regardless of the reason absence

Adopted by the undersigned pursuant to 25 TAC §§ 36 3(b) this 12th day of December 1983

Robert Bernstein M D F A C P
Commissioner of Health

TEXAS DEPARTMENT OF HEALTH

4 30 1984

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APPENDIX VII
SANITIZING PROCEDURES FOR FOOD SERVICE EQUIPMENT

Reusable food service equipment, including infant feeding equipment, must be properly washed and sanitized by one of the following methods:

Utensils must be completely immersed in hot water and maintained at a temperature of 170°F for not less than three minutes or 180°F for two minutes.

One and 1/4 teaspoons of chlorine bleach must be used for each gallon of water at lukewarm temperature during the final rinse.

One-half teaspoon iodine must be used for each gallon of water at lukewarm temperature.

Quaternary ammonium compounds or acid sanitizer compounds must be used according to directions on the officially approved label.

If utensils are machine washed, final rinse water must be at least 180°F.

Other methods may be used if approved by the local health department or the Texas Department of Health.

APPENDIX VIII
CRIMINAL OFFENSES FROM THE TEXAS PENAL CODE

The following constitute criminal offenses included in the Texas Penal Code:

Title 5. Offenses Against the Person

Murder
Capital murder
Voluntary manslaughter
Involuntary manslaughter
Criminally negligent homicide
False imprisonment
Kidnapping
Aggravated kidnapping
Rape
Aggravated rape
Sexual abuse
Aggravated sexual abuse
Homosexual conduct
Public lewdness
Indecent exposure
Rape of a child
Sexual abuse of a child
Indecency with a child
Assault
Sexual assault
Aggravated assault
Aggravated sexual assault
Deadly assault on a peace officer
Injury to a child or an elderly individual
Reckless conduct
Terroristic threat
Aiding suicide
Tampering with consumer products

Title 6. Offenses Against the Family

Bigamy
Incest
Interference with child custody
Enticing a child
Criminal non support
Sale or purchase of a child
Solicitation of a child
Harboring a runaway child
Violation of a court order

Title 43. Public Indecency

Prostitution
Promotion of prostitution
Aggravated promotion of prostitution
Compelling prostitution
Obscene display or distribution
Obscenity
Sale, distribution, or display of harmful material to a minor
Sexual performance by a child